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MS24-001726



Australian Government

**Department of Infrastructure, Transport,
Regional Development, Communications and the Arts**

To: The Hon Michelle Rowland MP, Minister for Communications (for decision)

Subject: 2024 Spring variation bid – Social Media Age Limit

Critical Date: Please action by close of business Wednesday, 11 September 2024. The Department Liaison Officer (DLO) will send a digital copy of the letter and variation bid to the Prime Minister’s DLO ^{s34(3), s47C}
s34(3), s47C

Recommendations:

1. That you **approve** the variation bid proposed for the Spring 2024 legislation program at **Attachment A**.

Approved / Not Approved

2. That you **sign** the letter to the Prime Minister, the Hon Anthony Albanese MP at **Attachment B**, seeking approval to vary the legislation program to add the Online Safety (Social Media Age Limit) Amendment Bill to the 2024 Spring legislation program.

Signed / Not Signed

The Hon Michelle Rowland MP

11/9/24

Date:

Comments:

Key Points:

1. On 16 May 2024, you approved the Spring 2024 Communications portfolio legislation bids and signed a letter to the Prime Minister submitting those bids for a place and priority on the legislation program (MS24-000415 refers).

s34(3)

3. On 9 September 2024, the Prime Minister announced that the Government will introduce legislation to enforce a minimum age for access to social media and other relevant digital platforms before the end of 2024. To achieve this timeframe, this bill would need to be

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introduced by the end of Spring sittings. This bid is required to ensure drafting resources can be allocated for the measures announced so they can be introduced before the end of the year.

s34(3), s47C

s34(3), s47C s47C

s47C

Financial impacts: N/A

Legal/Legislative impacts:

s34(3)

s47C, s34(3)

6. Drafting instructions for the bill will be prepared in parallel with the development of the Submission.

Stakeholder Implications:

7. The bill will have significant implications for the technology and digital platforms industry. There will also be implications for the broader Australian community, including parents, children and educators.

Consultation:

8. Department of the Prime Minister and Cabinet

Media Opportunities: N/A

Attachments:

Attachment A: Communications portfolio bids - Variations Spring 2024

Attachment B: Letter to the Prime Minister

Cleared By: Bridget Gannon
Position: First Assistant Secretary
Division: OSMAP
Mob: s22(1)(a)(ii)

Contact Officer: s22(1)(a)(ii)
Section: Legislation Liaison
Ph: s22(1)(a)(ii)
Mob: s22(1)(a)(ii)

Cleared Date: 11 September 2024

Instructions for MPS: DLO to email attachments to PM DLO and deliver hand copies.

Do you require a signed hardcopy to be returned: No

Responsible Adviser: Shervin Rafizadeh (cc: s22(1)(a)(ii))

PDMS Distribution List: Jim Betts, Maree Bridger, James Chisholm, Bridget Gannon, Andrew Irwin, s22(1)(a)(ii)
s22(1)(a)(ii) Shervin Rafizadeh, s22(1)(a)(ii)

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The Hon Michelle Rowland MP

**Minister for Communications
Federal Member for Greenway**

MS24-001726

The Hon Anthony Albanese MP
Prime Minister
Parliament House
CANBERRA ACT 2600

A.Albanese.MP@aph.gov.au

Dear Prime Minister,

I refer to my letter of 16 May 2024 requesting the inclusion of Communications portfolio legislation bids for the 2024 Spring sittings.

I write to request your agreement to vary the legislation program ^{s47C} [REDACTED] ^{s47C} to amend the *Online Safety Act 2021* to create a minimum age for access to social media platforms Online Safety (Social Media Age Limit) Amendment Bill. I am seeking introduction in Spring consistent with public commitment to introduce this year. This bid is required to ensure drafting resources can be allocated for the announced measures so they can be introduced before the end of the year.

Yours sincerely


Michelle Rowland MP

11 19 /2024

The Hon Michelle Rowland MP
PO Box 6022, Parliament House Canberra
Suite 101C, 130 Main Street, Blacktown NSW 2148 | (02) 9671 4780

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	<p>Australian Government</p> <hr/> <p>Department of Infrastructure, Transport, Regional Development, Communications and the Arts</p>
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To: The Hon Michelle Rowland MP, Minister for Communications (for decision)

Subject: Social Media Age Limits Legislation – Seeking Prime Ministerial Exemption for Impact Analysis

Critical Date: Please action by **Friday 27 September** to allow the department to progress the drafting instructions for the Social Media Age Limits legislation.

Recommendations:	
<p>1. That you agree to seek an exemption from the Prime Minister from undertaking an Impact Analysis for the forthcoming legislation to enforce a minimum age for access to social media, for the reasons outlined in this brief.</p>	<p>Agreed / Not Agreed</p>
<p>2. That you sign the letter to the Prime Minister at Attachment A, seeking an exemption from undertaking the Impact Analysis.</p>	<p>Signed / Not Signed</p>
<p>The Hon Michelle Rowland MP Date:</p> <p>Comments:</p>	

Key Points:

1. We are seeking your agreement to request an exemption from the Prime Minister from completing an Impact Analysis for the proposed legislation to enforce a minimum age for access to social media.
2. The Prime Minister can exempt a government entity from the need to complete Impact Analysis in very limited circumstances, including truly urgent and unforeseen events requiring a decision before adequate Impact Analysis can be undertaken.
3. We consider the introduction of this legislation to be truly urgent as an immediate, nationally consistent approach is required to address the harms arising from children’s use of social media.

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4. Without Commonwealth legislation, there is a real risk that several states will implement social media bans with different age limits, definitions of social media and regulatory approaches. A scattered approach would fail to deliver the unified solution Australian parents want, have potential gaps, and present comparatively higher regulatory burden for platforms, complicating the implementation of any limits.

5. In drafting this legislation, the department has considered the impacts identified through targeted stakeholder engagement, including with youth, parents and child-development experts, academics and community organisation, engagement with state and territory governments and ongoing consultation across government through the Cross-Government Working Group on Age Assurance and officials from the Online Harms Ministers Meeting portfolio departments.

s47C

7. While Prime Minister's exemptions are uncommon, 2 of the last 6 exemptions were granted for legislation related to protecting Australians on social media and online services. There is precedent that protecting Australians from online harms requires urgent decision making.

8. The Prime Minister's decision to grant an exemption will be noted on the OIA website, including your letter requesting an exemption, and it must be noted in the Explanatory Memorandum for the Social Media Age Limit legislation. A Post-Implementation Review must be completed within 2 years of implementation of the decision.

Background

9. The OIA administers the Policy Impact Analysis Framework for the Australian Government. The OIA does not have any power over decisions and its role is advisory.

10. Impact Analysis is required for all policy proposals of Government that would be expected to drive a change in behaviour such as changes to rights, powers, obligations or responsibilities where those changes would have major impacts on our community.

s34(3)

Financial impacts: N/A

Legal/Legislative impacts:

12. No additional impact. The Explanatory Memorandum will include a section on impact analysis, or the exemption from it.

Stakeholder Implications:

13. There are no direct stakeholder impacts from this decision, however it will be publicly noted that the Prime Minister provided an Impact Analysis exemption for this legislation. Platforms may point to this in contesting the legislation.

Consultation: The Office of Impact Analysis

Media Opportunities: N/A

Attachments:

Attachment A: Letter to the Prime Minister seeking Impact Analysis Exemption

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Cleared By: Sarah Vandebroek
Position: First Assistant Secretary
Division: Digital Platforms, Safety and Classification
Ph: s22(1)(a)(ii)
Mob: s22(1)(a)(ii)
Cleared Date: 23 September 2024

Contact Officer: Andrew Irwin
Section: Online Safety Branch
Ph: s22(1)(a)(ii)

Instructions for MPS: Nil

Do you require a signed hardcopy to be returned: No

Responsible Adviser: s22(1)(a)(ii) and s22(1)(a)(ii)

PDMS Distribution List: Jim Betts, James Chisholm, Sarah Vandebroek, Andrew Irwin, s22(1)(a)(ii), s22(1)(a)(ii), s22(1)(a)(ii), s22(1)(a)(ii)

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The Hon Michelle Rowland MP

**Minister for Communications
Federal Member for Greenway**

MS24-001787

The Hon. Anthony Albanese MP
Prime Minister
Parliament House
CANBERRA ACT 2600

x.xxxxxxxx.xx@xxx.xxx.xx

Dear Prime Minister

Consistent with your announcement of 10 September 2024, and in response to widespread community concern around harmful online environments and the growing evidence base regarding its detrimental impact on childhood development, the Australian Government is taking decisive action to enact a minimum age for access to social media by introducing legislation before the end of this year.

Australian parents, carers, and children are facing unprecedented challenges in dealing with a global social issue, and the physical safety and mental health of young people is paramount.

I seek your approval for an exemption from completing an Impact Analysis for the proposed legislative measures to ensure that the legislation can be introduced this year. This exemption is consistent with the Office of Impact Analysis' (OIA) Guidance on OIA Procedures.

A number of state governments have announced plans to introduce similar measures in the absence of federal legislation. However, a Commonwealth-led approach will ensure Australian children are better protected from online harms, and that parents, carers and children are supported in a nationally consistent manner across jurisdictions.

It will also provide certainty to industry and ensure that enforcement powers can be vested to the eSafety Commissioner, the independent regulator for online safety under the *Online Safety Act 2021*.

In drafting this legislation, I have considered the impacts identified through targeted stakeholder engagement, including with youth, parents and child-development experts, academics and community organisation, engagement with state and territory governments and ongoing consultation across government through the Cross-Government Working Group on Age Assurance and the Online Harms Ministers Meeting.

The Hon Michelle Rowland MP
PO Box 6022, Parliament House Canberra
Suite 101C, 130 Main Street, Blacktown NSW 2148 | (02) 9671 4780

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A Post-Implementation Review of the decision will be completed within 2 years of implementing the measures consistent with the OIA requirements for an exemption. Any unforeseen impacts of the legislation will be assessed at this review point.

Thank you for your consideration of this request.


Yours sincerely

Michelle Rowland MP

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 <p>Australian Government</p> <hr/> <p>Department of Infrastructure, Transport, Regional Development, Communications and the Arts</p>	<p align="right">Meeting/Event Brief</p> <p align="right">MB24-000682</p>
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To: Michelle Rowland

MEETING: Online Harms Ministers Meeting

Timing: 3-4pm, Tuesday 1 October 2024

Venue: Parliament House, Canberra

Meeting with: You are chairing the Online Harms Ministers Meeting (OHMM). A list of attendees is included with the OHMM Agenda (**Attachment A**).

Prior meetings: The first OHMM was held on 19 October 2023 and the second meeting on 4 March 2024. The OHMM meets bi-annually, but can meet more regularly as needed.

Our Proposed Objectives:

On 19 September, your office advised that discussion at the OHMM scheduled for 1 October 2024 should focus solely on age limits for access to social media. This followed the Prime Minister’s announcement on 10 September that the Government would introduce legislation to enforce a minimum age limit for social media. The OHMM will be an opportunity to discuss the implications of this policy on other portfolios and consider strategies to support its implementation.

Their Objective:

The meeting provides an opportunity for Ministers to share their views on age limits.

Key Points:

1. On your office’s request, this OHMM will focus solely on social media age limits. The purpose of the OHMM is to coordinate online harms policy and share information across portfolios. The discussion at the OHMM will be insightful for work underway on social media age limits and will help to inform the subsequent Cabinet submission.
2. Mr Jim Betts, Secretary of the Department of Infrastructure, Transport, Regional Development, Communications and the Arts will facilitate the meeting.
3. The Annotated Agenda (**Attachment B**) includes talking points and background to assist you to Chair the meeting and lead discussion on social media age limits. The Secretary will facilitate this discussion. Ministers have been provided with a paper (**Attachment E**) ahead of the meeting, to support the discussion.

4. s22(1)(a)(ii)

5. The department has advised the Working Group members of the change in agenda and asked agencies to brief their ministers on any evidence supporting a particular minimum

age, and any complementary measures to support youth, parents and carers, and those who are vulnerable.

6. s22(1)(a)(ii)

7. The list of members in the OHMM Terms of Reference (**Attachment D**) has also been updated to reflect ministerial changes. Senator the Hon Malarndirri McCarthy, Minister for Indigenous Australians, will replace former Minister for Indigenous Australians, the Hon Linda Burney MP, at the OHMM. We understand that the current Minister for Home Affairs, the Hon Tony Burke MP, who is replacing the Hon Claire O’Neill MP, may not be able to attend this meeting, but may be represented by Special Envoy for Cybersecurity and Digital Resilience, Dr Andrew Charlton MP. We have suggested that you note and seek agreement to the updated OHMM Terms of Reference at the start of the meeting when welcoming new Ministers or their representatives.

Sensitive and Critical Information:

The OHMM is not a formal decision-making body; rather it is a forum for strengthening whole-of-government policy and coordination efforts. Advice from PM&C is that the OHMM can discuss general policy issues, but should not consider the specifics of any Cabinet submissions.

Proposed Notetaker: The department will provide a notetaker and secretariat support.

Name: Sarah Vandebroek
Position: First Assistant Secretary
Division: Digital Platforms, Safety and Classification
Ph: s22(1)(a)(ii)
Mob: s22(1)(a)(ii)
Date Cleared: 26 September 2024

Contact Officer: Andrew Irwin
Division: Digital Platforms, Safety and Classification
Ph: s22(1)(a)(ii)
Mob: s22(1)(a)(ii)

Attachments:

Attachment A: October OHMM Agenda and list of attendees

Attachment B: Annotated agenda

Attachment C: s22(1)(a)(ii)

Attachment D: s22(1)(a)(ii)

Attachment E: Paper on social media age limits



Australian Government

Department of Infrastructure, Transport,
Regional Development, Communications and the Arts

Meeting Agenda

October 2024 Online Harms Ministers Meeting (OHMM)

Date: 1/10/2024 **Time:** 3:00-4:00 pm
Location: Parliament House, Canberra
Chair: The Hon Michelle Rowland MP, Minister for Communications
Facilitator: Jim Betts, Secretary, Department of Infrastructure, Transport, Regional Development, Communications and the Arts

Attendees

Note: Ministers may invite department representatives to assist with discussions.

Name	Position
The Hon Tim Watts MP (virtual)	Assistant Minister for Foreign Affairs; <i>representing the Minister for Foreign Affairs.</i>
Senator Malarndirri McCarthy	Minister for Indigenous Australians
The Hon Amanda Rishworth MP (virtual)	Minister for Social Services
The Hon Mark Dreyfus KC, MP	Attorney-General
The Hon Stephen Jones MP	Assistant Treasurer, Minister for Financial Services; <i>representing the Treasury portfolio.</i>
The Hon Emma McBride MP	Assistant Minister for Mental Health and Suicide Prevention, Assistant Minister for Rural and Regional Health; <i>representing the Health portfolio</i>
Dr Andrew Charlton MP	Special Envoy for Cyber Security and Digital Resilience; <i>representing the Cyber Security portfolio</i>
TBA	<i>Representative for the Department of Education</i>

Apologies: Senator the Hon Katy Gallagher, Minister for Women, Minister for Finance, Minister for the Public Service; The Hon Tony Burke MP, Minister for Home Affairs, Minister for Immigration and Multicultural Affairs, Minister for Cyber Security, Minister for the Arts; the Hon Ed Husic MP, Minister for Industry and

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Science; the Hon Jason Clare MP, Minister for Education; the Hon Dr Anne Aly MP, Minister for Early Childhood Education, Minister for Youth.

Agenda

	Agenda item	Presenter	Duration
1.	Welcome	Chair, The Hon Michelle Rowland MP, Minister for Communications	5 minutes
2.	Discussion: Social media age limits for children Minister Rowland will provide an update on the Government's recent announcement to introduce legislation to enforce a minimum age for access to social media. Ministers will be invited to discuss, including sharing evidence-based suggestions of an appropriate age and suggesting complementary measures to support youth, parents and carers, and vulnerable cohorts	Chair, The Hon Michelle Rowland MP, Minister for Communications Supported by all Ministers	50 minutes
6.	Other business and concluding remarks	Chair, The Hon Michelle Rowland MP, Minister for Communications	5 minutes

Close

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Australian Government

Department of Infrastructure, Transport,
Regional Development, Communications and the Arts

Briefing

Online Harms Ministers Meeting

Annotated Agenda

The Hon Michelle Rowland MP

Minister for Communications

1 October 2024

3 – 4pm

Parliament House

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Approach to the Online Harms Ministers Meeting (OHMM)

The first Online Harms Ministers Meeting (OHMM) was held on 19 October 2023 and the second meeting on 4 March 2024. The second meeting was facilitated by the then Deputy Secretary, Richard Windeyer. You requested the department facilitate the OHMM, so the meeting can be a free-flowing discussion among Ministers.

The OHMM is an opportunity to identify areas for cooperation across relevant portfolios, ensuring alignment of resources and educational, awareness-raising, research and prevention activities.

The OHMM was established following the House of Representatives Select Committee on Social Media and Online Safety Inquiry. In the Government's response to the Committee's report, tabled in March 2023, the Government committed to hold a bi-annual meeting of Ministers with responsibility for addressing online harms.

The OHMM is intended to assist in the development of a streamlined and cohesive approach to online harms policy in Australia. It complements the work of other forums such as the Digital Platform Regulators Forum, the Data and Digital Ministers Meeting and the Women and Women's Safety Ministerial Council.

Attachments

- Agenda and attendee list
- Draft outcomes from March 2024 OHMM
- OHMM Terms of Reference update
- Age limits paper

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Item 1 - Welcome (5 minutes)

You will open the OHMM as Chair and seek to settle some administrative matters:

s22(1)(a)(ii)

You will then pass over to Secretary Betts to facilitate the meeting.

- Welcome to the third Online Harms Ministers Meeting. Thank you everyone for being here today.
- I would like to begin by acknowledging the Traditional Owners of the lands from which we are all meeting today, for those of us in Canberra the Ngunnawal [nuh-nuh-wol] people, and pay my respects to the Elders, past and present, of all Australia's First Nations people. I extend that respect to any Aboriginal and Torres Strait Islander people here today.
- Before we get into today's discussion item, I'd like to settle a few administrative matters.

s22(1)(a)(ii)

- The draft agenda for today's meeting was initially focused on these items, and I'd like to thank members and their departments for engaging on this work. The intention is for these items to still be discussed at a later OHMM.


s22(1)(a)(ii)

- Today we are joined by Mr Jim Betts, Secretary of the Department of Infrastructure, Transport, Regional Development, Communications and the Arts. I am very grateful that Mr Betts has agreed to facilitate this discussion today. I will now hand over to him.

Facilitator's Talking Points

- Thank you Minister. It's a pleasure to be here today to facilitate the third Online Harms Ministers Meeting.
- As you're aware, today we are focusing on one item – age limits for children on social media.
- There's a lot to discuss on this topic but before we move to the discussion item, is there anything that members would like to raise?

s22(1)(a)(ii)



Item 2: Discussion: Social media age limits for children (50 minutes)

You will lead this item, and provide an update on the Government's recent announcement to introduce legislation to enforce a minimum age for access to social media. Ministers will then be invited to discuss the issue, including:

- Sharing evidence-based suggestions of an appropriate age, and
- Suggesting complementary measures to support youth, parents and carers, and people in vulnerable situations
- Ministers have been provided a paper ahead of the meeting, to enable the discussion.

Handling note:

- Mr Betts will open this item.
- You will then provide an update on work to progress the legislation and a minimum age for access to social media.
- Mr Betts will then open the discussion to other Ministers.

Talking points

[Secretary Betts will open the item and then hand over to you]

Overview and request for information from OHMM members

- Thank you, Secretary.
- I hope all of you have had a chance to consider the paper which provides an outline of what I would like to discuss today.
- I provided an oral update to Cabinet on 23 September and have also engaged with Ministers Aly and McBride through a youth forum on the age assurance trial.
- Our Government's leadership in taking on the platforms and social media companies is clearly driving real behavioral change – whether BigTech would like to admit it or not.
 - Meta's announcement of Teen Accounts is a clear demonstration that social media companies are seeing the writing on the wall.
- The key question to land is that of the appropriate age. My department has consulted with youth, parents, academics and child-development experts, and community organisations, however there is no consensus on a single age.
- I am also very conscious of the pressure already placed on parents who have to balance their children's freedoms in society with protecting them from harm. Therefore, parental consent is not currently part of my recommended model. The onus will be on the platforms to do the right thing by our young people.
- This legislation is an important step towards protecting young Australians, however, legislation alone will not be sufficient. I have heard directly from youth and parents that any ban won't be effective without appropriate public education and supports for parents, carers and educators.
- It's also important to acknowledge that many support services for vulnerable or marginalised youth, such as youth mental health, professionally produced children's content, or First Nations' specific services, currently reach their audience through social media.

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- Therefore, I will also be proposing a range of complementary measures to the legislation. **I invite you to propose programs in your respective portfolios that could be rolled out to support youth, parents and carers transition to and manage this change.**
- Programs could include awareness campaigns, digital literacy education, and consideration of ways to maintain the reach of important support services.
- My department has already reached out to the Departments of Health, Social Services, Education, the National Mental Health Commission and the National Indigenous Australians Agency seeking research, evidence and ideas for complementary measures.

Legislative design

- The Secretary will now take us through the key aspects of the legislation which were listed in the paper provided to you.

Facilitator's Talking Points*Introduction*

- As we all know, the Government has announced that legislation will be introduced this year to enforce a minimum age for access to social media and other relevant digital platforms.
- The Prime Minister noted that Federal legislation will be informed by engagement with States and Territories through National Cabinet and draw upon the Hon Robert French *AC's Report of the Independent Legal Examination into Banning Children's Access to Social Media*, commissioned by the South Australian Government.
 - The Report encouraged a Commonwealth-led approach.
- The NSW and South Australian governments are holding a Social Media Summit on 10 and 11 October, and will consider issues including:
 - impacts of social media on children and young people's wellbeing
 - online safety
 - social media's role in disinformation and misinformation
 - addressing online hate and extremism, and
 - how social media is changing the way government delivers services.
- Federal legislation is a logical step to ensure that all young Australians are better protected from online harms, and that parents and carers are supported in a nationally-consistent manner to keep their children safe.
- You may have also heard the announcement by Meta, the owner of Facebook and Instagram, about the immediate introduction of Instagram Teen Accounts in the US, Canada, UK and Australia. Teen Accounts will have built-in protections that limit who can contact teens and the content they see.
- My department is leading or facilitating two key initiatives in this space.

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<ul style="list-style-type: none"> ○ The \$6.5 million Age Assurance Trial, which is making good progress with the Request for Tender to procure an independent provider to assess age assurance technologies currently open. ○ The report of the independent review of the <i>Online Safety Act 2021</i>, which is due to be delivered to the Government by 31 October 2024. ● Before I call on the Minister to take us through an overview of the social media age limits legislation, I would like to extend my appreciation to officials from your departments and agencies who are generously contributing their time and ideas into the discussion about age limits and through the age assurance trial. ● Minister – over to you. <p>[Minister Rowland speaks, notes above]</p> <ul style="list-style-type: none"> ● Thank you Minister.
<p><i>Legislative design</i></p> <ul style="list-style-type: none"> ● Thank you Minister. ● I will go through the legislative design features and the reasoning behind each, and invite your views.

Legislative element	South Australia model (Hon Robert French AC's draft Bill)	Existing or proposed policy/legislation/governance	Questions/comments
Age	14, 14-15 with parental consent	<ul style="list-style-type: none"> ● SA: Ban under 14s; parental consent for under 15 and 16-year olds. ● NSW: 16 ● Queensland Chief Health Officer: 14 ● Prime Minister's preference: 16 	<ul style="list-style-type: none"> ● What in your view should be the minimum age of access and why? ● What might be the unintended consequences of restricting access to social media at ages above 13?
Definition of social media	Definition of social media services includes relevant electronic services (making messaging, SMS and online games in scope)	Defined under the Online Safety Act. This excludes messaging and online games.	<ul style="list-style-type: none"> ● To enable introduction of the legislation this year, the department is of the view that the definition of social media under the OSA should suffice, but there may need to be some exemptions.

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Legislative element	South Australia model (Hon Robert French AC's draft Bill)	Existing or proposed policy/legislation/governance	Questions/comments
Role for parents/parental consent	Parental consent for 14 and 15-year olds	<ul style="list-style-type: none"> Onus on platforms. Parental model not recommended to avoid putting more pressure on parents. 	<ul style="list-style-type: none"> What are the arguments for and against allowing parents or carers to consent to allowing their children to access social media.
Responsibility/obligation	Platforms to have two duties – prevent individual access, and on the systems level take reasonable steps to prevent access	<ul style="list-style-type: none"> The regulator or courts will determine if a platform has demonstrated if they have taken reasonable steps. 	For information only.
Access/Account creation	Duty applies to access to service	<ul style="list-style-type: none"> Access includes both creation of new accounts and existing access for children under the minimum age. 	For information only.
Exempt services	Class or service designated by Minister – report says must be of benefit and low/no risk	The regulator will develop guidance on what would determine if services are exempt.	<p>The aim of exemptions is to incentivise 'safe' innovation by platforms.</p> <p>Further, some support services are only accessible through social media, for example Kids Helpline.</p>
Regulation/penalties /legislation	To be appointed/created	<ul style="list-style-type: none"> Online Safety Act and eSafety Commissioner at the Commonwealth level Social media age limits will be a new Part in the OSA. 	For information only.
Complementary measures	N/A	We have heard widely through targeted stakeholder consultations that vulnerable youth, CALD, LGBTQIA+ youth, and those living in regional and remote areas, as well as	<ul style="list-style-type: none"> What types of supports would you consider appropriate and relevant to your portfolios? Some examples are public awareness,

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Legislative element	South Australia model (Hon Robert French AC's draft Bill)	Existing or proposed policy/legislation/governance	Questions/comments
		parents and carers, will need support.	education, healthy alternatives, mental health support.

Chair background	
Topic	<p><u>Engagement with Commonwealth departments and agencies</u></p> <p>Following the 1 May announcement of the Age Assurance Trial, the department has established a Cross Government Working Group to support the work of the age assurance trial, which includes agencies with policy expertise on age assurance and related technologies, and with responsibility for privacy, safety and security.</p> <p>The Working Group has provided input into the development of the criteria against which age assurance technologies will be assessed in the trial.</p> <p><i>Membership of the Cross-Government Working Group</i></p> <ol style="list-style-type: none"> 1. Attorney-General's Department 2. Australian Institute of Criminology 3. Department of Education 4. Department of Finance 5. Department of Health 6. Department of Home Affairs 7. Department of Industry, Science and Resources 8. Department of Infrastructure, Transport, Regional Development, Communications and the Arts 9. Department of Prime Minister and Cabinet 10. Department of Social Services 11. eSafety Commissioner 12. National Indigenous Australians Agency 13. National Mental Health Commission 14. Office of the Australian Information Commissioner 15. The Treasury <p>The group has met four times since its establishment in May 2024, with the next meeting scheduled for tomorrow 2 October.</p>

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Item 5: Other business and concluding remarks (5 minutes)

Secretary Betts will open and then hand back to you to lead this item.

We suggest you provide an opportunity for OHMM members to raise any further recent policy and regulatory developments, or new evidence of harms, and raise outstanding issues or ask follow-up questions.

Note: We have not confirmed updates for this item. However, we understand the following issues may be raised:

- **AI deepfakes and the impact they have on schools:** The Department of Education have advised their representative will likely raise this as a topic for further discussion at the OHM.

You will then make your final remarks and close the meeting.

Talking points

[Secretary Betts will open the item and then hand over to you]

- Thank you for attending the Online Harms Ministers Meeting today.
- For this final item I'd like to open the floor for members to raise any other business.
- Would anyone like to provide an update?
- Would anyone like to raise a topic to discuss at a future OHMM?
- Thank you for supporting this discussion. I look forward to our next meeting.
- I now draw this meeting to a close.

Facilitator's Talking Points

- For this final item, I will hand back to the OHMM Chair, Minister Rowland, to make some final remarks and run through other business.
- Over to you Minister Rowland.

Minister Rowland's background

Topic	Talking Points
If asked: will there be a media release following this meeting?	<ul style="list-style-type: none"> • As the substance of our discussion today has focused on issues that will be considered by Cabinet, there will not be a media release following this OHMM.

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Online Harms Ministers Meeting – Social Media Age Limits – Discussion Paper

- On 10 September, the Prime Minister announced that legislation will be introduced this year to enforce a minimum age for access to social media and other relevant digital platforms.
- The Minister for Communications is working towards introducing this legislation in November 2024.
- This legislation will provide both immediate protection for young Australians, as well as further incentive for ‘safe’ innovation by industry – not just for children, but for all users.
- The age for limiting social media access is yet to be determined. OHMM members are invited to put forward views and evidence regarding suitable ages.
- The legislation, which will be a new Part in the *Online Safety Act*, will consider the following design parameters:
 - **Mandatory obligation** on social media services to take reasonable steps to prevent children under the minimum age from accessing their service.
 - **Exemptions** for social media services if the service is on a list of ‘safe services’ as determined by the regulator. Guidance will be developed before implementation on what constitutes a ‘safe’ service.
 - An **oversight** function through the regulator to undertake activities such as compliance monitoring, information gathering, audits and granting powers to enforce penalties for breach of obligation.
 - The age limit will apply to both the creation of accounts and access to social media, i.e. those who already have an account but are under the minimum age.
 - 12 month **deferred commencement** after Royal Assent to provide industry with sufficient time to develop and implement systems, and for the regulator to develop guidance.
 - A **review** of the measures within two years of commencement, or aligned with the next review of the Online Safety Act.
- Any limit to access won’t be effective without appropriate public education and supports for parents, carers and educators.
- Components of these supports sit outside the remit and expertise of the Communications Portfolio in terms of education, health and social supports where these can make an impact in mitigating any unintended consequences of this legislative action.
- Further, for many support services for vulnerable or marginalised youth – such as youth mental health, professionally produced children’s content, or First Nations’ specific services – social media is vital to reaching their community or audience.
- OHMM members will be invited to discuss complementary measures to the legislation, including awareness campaigns, digital literacy education, and ways to maintain the reach of important support services to those who need it most. These could be programs delivered through Government or private organisations.
- OHMM members are invited to discuss other supports that the Government should consider or that exist to surface in the awareness raising efforts around this issue, to address some of the unintended consequences of mandating a minimum age of access to social media.

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ATTACHMENT F

Summary: Potential portfolio discussion points


Minister	Interest	Possible questions
The Hon Tim Watts MP, Assistant Minister for Foreign Affairs	<ul style="list-style-type: none"> Foreign state equities in social media platforms and impacts on relations. 	<i>Has your department engaged with counterparts in relation to the minimum age announcement? Notably the US or China?</i>
Senator Malarndirri McCarthy, Minister for Indigenous Australians	<ul style="list-style-type: none"> Isolate First Nations youth Possible impacts for Target 17 of the National Agreement on Closing the Gap - by 2026 Aboriginal and Torres Strait Islander people have equal levels of digital inclusion. 	<p><i>Are there any existing measures that can be leveraged to mitigate potential consequences for First Nations youth?</i></p> <p><i>Are there any unforeseen consequences on Target 17 of the National Agreement on Closing the Gap?</i></p> <p><i>Are there any particular considerations for remote communities?</i></p>
The Hon Amanda Rishworth MP, Minister for Social Services	<ul style="list-style-type: none"> Extreme misogyny and gender-based violence Recommendation 5 from the <i>Unlocking the Prevention Potential: accelerating action to end domestic, family and sexual violence</i> report released in August 2024 is to: <i>Continually inspect, understand and adapt to the emerging and changing role of technology. This should include understanding and responding to the opportunities that technology may present, as well as the unintended consequences technology may cause or exacerbate.</i> 	<p><i>In their recent report <u>Unlocking the Prevention Potential, the Rapid Review of Prevention Approaches to help stop gender-based violence</u> highlighted a number of priority areas including,</i></p> <ol style="list-style-type: none"> <i>1. engaging with men and boys in violence prevention, and;</i> <i>2. early intervention initiatives.</i> <p><i>In relation to online harms, what impact would a minimum age for social media have on these priorities?</i></p> <p><i>Are there supporting measures, either existing or in development, for these priorities?</i></p> <p><i>[If yes] How could these be leveraged to mitigate reduced access to information or services for young women and men, e.g. any school or community-based initiatives?</i></p>
The Hon Mark Dreyfus KC, MP, Attorney-General	<ul style="list-style-type: none"> Best interests of the child Privacy reforms – targeting/profiling of children, including for advertising. AGD may note that the Privacy Act review did not recommend a ban on targeting, particularly where this may be in the best interests of the child Enforceability of the ban/extraterritoriality – what are the actions the Government can take against these big overseas companies Liability – potentially shifts from platforms to Government if a platform is declared ‘safe’ 	<p><i>Regarding exemptions, if children under the age limit are subsequently exposed to harmful content on a service that has been designated as ‘safe’ by the regulator and provided with an exemption, what repercussions could there be? Does the regulator accept some liability when designating a safe service?</i></p> <p><i>Given the Privacy Act review did not recommend a ban on targeting, particularly where this may be in the best interests of the child, would it be appropriate for privacy measures to be a consideration for any exemptions?</i></p>
The Hon Stephen Jones MP, Assistant Treasurer, Minister for Financial Services; <i>representing the Treasury portfolio.</i>	<ul style="list-style-type: none"> Risk of services leaving the market Anti-competitive regulation – applies to biggest services but smaller harmful services do not have to stop kids? 	<i>How could age requirements impact competition? Are there considerations for allowing exemptions?</i>

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OFFICIAL: SENSITIVE

Minister	Interest	Possible questions
<p>The Hon Emma McBride MP, Assistant Minister for Mental Health and Suicide Prevention, Assistant Minister for Rural and Regional Health; <i>representing the Health portfolio</i></p>	<ul style="list-style-type: none"> Who is exempt? Those larger services that take steps to make their services safe? Does liability then shift to the Government because they have effectively endorsed the service as safe for kids? Social media can affect young people's sleep quality, sense of loneliness and reduced self-esteem. Social media may drive disordered eating and eating disorders through encouraging engagement with risky content, promoting unrealistic body image and through imitation and comparison. Social media may trigger or exacerbate mental health concerns. Social media can normalise self-harm and suicidality amongst young people. However, it also presents an immediate way of detecting and responding to suicide or self-harm. There are benefits for young people, including access to information, or connection and support related to mental health. Since the announcement by the PM, we understand stakeholders such as Reachout, Headspace and Beyond Blue have been actively advocating to Government. In a joint submission to the Joint Select Committee on Social Media and Australian Society ReachOut, Beyond Blue and Black Dog Institute that any "[...] proposal that the age of accessing social media be increased from 13 to 16 simplifies what is a very complex issue. And, it ignores the fact that many young people are using social media to access things like mental health support, to build their identities and as a source of connection." Recent research from Black Dog Institute has found that using social media actively—mostly to communicate with in-person friends and peers - was associated with lower levels of depression and anxiety. 	<p><i>What are mental health organisations suggesting as evidence-based alternatives? Can these be incorporated as exemptions by the regulator? Or can they be addressed through complementary measures?</i></p>
<p>Dr Andrew Charlton MP, Special Envoy for Cyber Security and Digital Resilience; <i>representing the Cyber Security portfolio</i></p>	<ul style="list-style-type: none"> Online radicalisation of youth Social cohesion, exposure to extremist ideologies, mis and disinformation, or other harmful influences Encouraging dangerous or criminal behaviour 	<p><i>What evidence is there for younger cohorts being particularly susceptible to relevant online harms? What impact would an age limit have on these harms?</i></p>
<p>Representative for the Department of Education</p>	<ul style="list-style-type: none"> States and territories have legislated phone bans at school 	<p><i>Given many states and territories enacted a phone ban on personal communication devices this year, is the Department of Education aware of any benefits to younger cohorts that may be relevant?</i></p>

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	<p>Australian Government</p> <hr/> <p>Department of Infrastructure, Transport, Regional Development, Communications and the Arts</p>	<p>Meeting/Event Brief</p>	<p>MB24-000669</p>
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To: The Hon Michelle Rowland MP, Minister for Communications

MEETING: New South Wales (NSW) and South Australia (SA) Social Media Summit – 10 & 11 October 2024

Timing: You are attending and speaking at the Adelaide Summit on Friday, 11 October 2024

Venue: Adelaide Convention Centre

You are addressing the Summit on the Australian Government's position on a minimum age for social media, age assurance and the online environment.

Our Proposed Objectives: Give an address on the Government legislating a minimum age for social media.

Their Objective: NSW and SA are co-hosting a 2-day Social Media Summit. It brings together experts, policymakers, academics and young people to explore key areas including the impacts of social media on children and young people, online safety, social media's role in disinformation and misinformation, addressing online hate and extremism and how social media is changing the way government delivers services.

Key Points:

SA and NSW minimum age announcements

1. **South Australia:** On 7 September, the Premier of South Australia announced a proposed ban on children under 14 years of age from accessing social media, and with parental consent at 14 and 15 years old, ahead of releasing a report by former High Court Chief Justice Robert French examining legal avenues to restrict the use of social media by children.
2. **New South Wales:** The NSW Government is open to restricting social media use but is awaiting the summit's findings before committing to reform. However, the Premier of New South Wales has stated his support for a minimum age of 16.

NSW Have Your Say results

3. NSW Government ran a public Have Your Say survey on social media use and impacts in August/September 2024. Key findings include:
 - a. There was strong community engagement – 21,000 people completed the survey.
 - b. Most people (87 per cent) believe that there should be an age limit – the most common suggestion was 16.
 - c. Consensus on an age is split – 26 per cent 12-15 years, 40 per cent 16 years, and 30 per cent 18 years or even older.
 - d. Cyber security, inappropriate content and distractions are the top concerns of teens, and adults for themselves and their children.
 - e. 91 per cent of parents want more information on how to keep their kids safe online.

Age Assurance Trial

4. The request for tender for the technology assessment closed on 8 October. The department is currently assessing tenders and will seek to sign the contract and commence the trial shortly.
5. Consumer research into Australian's attitudes towards the use of age assurance technologies for access to online services is underway. Preliminary findings are due in mid-late November.
6. Targeted stakeholder consultation with young Australians, parent groups, academics, the digital industry (including platforms), and community and civil society groups is complete. We are organising further engagement with First Nations representatives, focusing on youth.

Engagement with States and Territories

7. The Prime Minister has written to all State and Territory Premier and Chief Ministers updating them on plans for national legislation to enforce a minimum age limit to social media and requesting input by Friday 18 October 2024 on the following matters:
 - a. Evidence from each jurisdiction on preferred age limit from a youth development perspective;
 - b. Threshold appetite among constituents on parental consent and permissions;
 - c. Views on grandfathering arrangements for existing account holders;
 - d. View on exemption for certain beneficial services (such as mental health, education and child safety);
 - e. Assessment of impacts of phone bans in each jurisdiction.
 - f. Advice on wrap-around measures to support young Australians.

Sensitive and Critical Information:

8. Attendees will be interested in discussing the minimum age and the definition for social media. These are two issues that will be settled following the Summit, after considering all available evidence and in consultation with states and territories.

Name: Sarah Vandebroek
Position: First Assistant Secretary
Division: Digital Platforms, Safety and Classification
Ph: s22(1)(a)(ii)
Mob: s22(1)(a)(ii)
Date Cleared: 9 October 2024

Contact Officer: Andrew Irwin
Division: Online Safety Branch
Ph: s22(1)(a)(ii)

Attachments:

Attachment A: Biographical Details

Attachment B: Talking Points

Attachment C: Programs for NSW and South Australia Summits

ATTACHMENT A

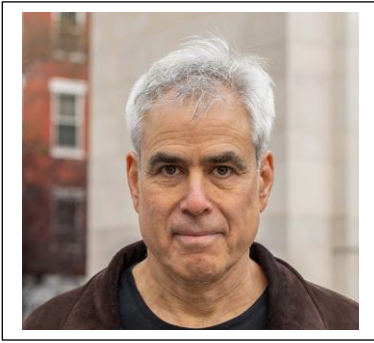
BIOGRAPHICAL DETAILS**MC and facilitator****Name:** Ms Annabel Crabb**Position:** MC and facilitator**Biography:**

Annabel is a journalist at the ABC, author and presenter who has covered Australian politics for 25 years. Annabel is a creator, presenter and contributor to political, historical and documentary television series. She is a prolific writer and commentator, known for her insightful and humorous analysis on gender and current affairs. She hosts a top rating podcast and has won a Walkley Award. Annabel is a journalist, commentator, celebrated baker and mother of three.

Keynote speaker**Name:** Mr Mike Burgess AM**Position:** Director-General**Organisation:** Australian Security Intelligence Organisation (ASIO)**Biography:**

Mike is Australia's fourteenth Director-General of Security and has led the Australian Security Intelligence Organisation (ASIO) since September 2019. He has spent more than three decades as an intelligence, security and technology professional, in both the public and private sectors. His experience includes senior roles in security and intelligence and Australia's largest telecommunications provider, Telstra. He is an expert in intelligence, security, counter-terrorism and counter-espionage. In 2024, he was appointed a Member of the Order of Australia for significant service to public administration, particularly national security and intelligence.

Video presentations



Name: Dr Jonathan Haidt

Position: Author, *The Anxious Generation: How the Great Rewiring of Childhood is Causing an Epidemic of Mental Illness*

Organisation: Social psychologist at New York University's Stern School of Business

Biography:

Jonathan is a social psychologist at New York University's Stern School of Business. His research examines the intuitive foundations of morality, and how morality varies across cultural and political divisions. He is the author of international bestselling books including *The Anxious Generation: How the Great Rewiring of Childhood is Causing an Epidemic of Mental Illness*. Since 2018, he has been studying the contributions of social media to the decline of teen mental health and the rise of political dysfunction.



Name: The Honourable Mr Robert French AC

Position: Former Chief Justice of the High Court of Australia

Biography:

Robert French AC, former Chief Justice of the High Court of Australia, led the legal examination into banning children's access to social media. He is the Chancellor of the University of Western Australia.

Panellists



Name: Professor Elizabeth Handsley

Position: President

Organisation: Children and Media Australia

Biography:

Elizabeth has been the President of Children and Media Australia for 14 years, actively advocating for children's rights as media users. She has more than 30 years' experience as a legal academic, specialising in constitutional law and children's media law. She is now the host of *Outside the Screen*, a podcast about screens in the lives of children and families, and a jazz presenter at Radio Adelaide.



Name: Ms Kirsty Amos

Position: Principal

Organisation: Parafield Gardens High School (PGHS)

Biography:

Kirsty is the current Principal of Parafield Gardens High School (PGHS). She is a committed educational leader with close to 30 years of experience. Her career has shaped a deep understanding of diverse contexts including urban and rural, affluent and disadvantaged—and how they impact education. Passionate about fostering inclusivity, Kirsty implemented a mobile phone ban at PGHS in 2021 to address the negative effects on learning and social cohesion. She is dedicated to creating a supportive environment that empowers all students to succeed.



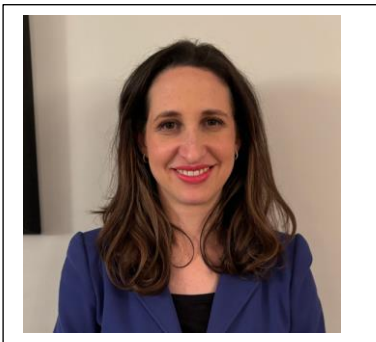
Name: Ms Sonya Ryan OAM

Position: Founder and CEO

Organisation: The Carly Ryan Foundation

Biography:

Sonya is the founder and CEO of The Carly Ryan Foundation. Carly Ryan was 15 years old when she was murdered by an online predator. Determined to help prevent harm to other innocent children and to help them navigate their online journey safely, Carly's mum Sonya, shared her lived experience and established The Carly Ryan Foundation in 2010. She has led efforts to make Australia one of the toughest nations for online crime and is a champion for online safety and crime prevention.



Name: Ms Jessica Mendoza-Roth
Position: Co-Founder of Wait Mate and CEO of Social Impact Hub

Biography:

Jessica is the Co-Founder of Wait Mate and CEO of Social Impact Hub, movements for social good. Wait Mate is a movement that empowers Australian parents to delay giving their child a smartphone until at least high school. It connects parents in their child's school year group once 10 families have signed up to take the pledge to wait, and is inspired by similar movements in the United States. Social Impact Hub is an intermediary that provides advisory services and education programs to mobilise people, organisations and capital for good.



Name: Dr Simon Wilksch
Position: Clinic Director
Organisation: Advanced Psychology Services and Senior Research Fellow in Psychology at Flinders University

Biography:

Simon is the Clinic Director of Advanced Psychology Services and Senior Research Fellow in Psychology at Flinders University. He is dedicated to reducing the burden of eating disorders and other mental health problems and has developed leading prevention and early intervention programs with a strong evidence base. Advanced Psychology Services provides an eating disorder treatment service for 450 children, adolescents and adults each year, with 11 therapists.



Name: Dr Danielle Einstein

Position: Adjunct Fellow

Organisation: School of Psychological Sciences,
Macquarie University

Biography:

Danielle is an Adjunct Fellow at the School of Psychological Sciences, Macquarie University and is a registered clinical psychologist who specialises in the treatment of anxiety. She is internationally known for her research on uncertainty and adolescent social media use. Danielle started her career as Head of the Anxiety Clinic at Westmead Hospital. She wrote a theory on uncertainty and was the first clinical psychologist to call for school phone bans. She strives to provide parents and educators with the power to turn anxiety around.



Name: Ms Lauren Brooks

Position: Principal

Organisation: Saint Ignatius' College

Biography:

Lauren is the current Principal of Saint Ignatius' College. She brings a wealth of experience from across the education sector, having held executive leadership roles in junior, middle and senior schools in South Australia and the Northern Territory. Since her arrival at Saint Ignatius' College in October 2023, Lauren has been passionate about working alongside its students to shape the future, together. She holds a Bachelor of Education from the University of Sydney, a Master of Educational Leadership from the Australian Catholic University and is a member and graduate of the Australian Institute of Company Directors.

Name: s47F

Positions: South Australian student representatives

Organisation: Teen Parliament

Biography:

Drawn from The Advertiser's annual Teen Parliament, four students share the challenges of growing up in a digital world and how they navigate the dark side of social media. The Teen Parliament features year 10, 11 and 12 students from across South Australia who are selected based on their pitch for a big idea to make a brighter future for SA, which they spruik to their peers.

ATTACHMENT B

TALKING POINTS**Social media**

- Social media services provide young Australians with a range of benefits – as a means of social connection and an avenue for community and identity building, and by providing access to support services, news and information.
- At the same time, most people agree that social media is exposing young Australians to a number of harms, including exposure to inappropriate content, cyber bullying and online predators, and risking adverse outcomes such as poor mental health and addictive behaviours.
 - Many of these harms also stem from the addictive features of algorithms.
- The Prime Minister announced on 10 September that the Government will introduce legislation this year to enforce a minimum age for accessing social media.
- Currently, there is no consensus on the age at which children can safely participate in social media.
- It is therefore essential that the legislated minimum age, alongside complementary measures, achieves a balance between minimising the harms experienced by young people, while supporting their access to the benefits of these services.

Legislative features

- A Commonwealth-led approach will ensure Australian children are better protected from online harms, and that parents, carers and children are supported in a nationally consistent manner.
- I welcome the close collaboration with States and Territories to inform this work, including the recent work by former Chief Justice, Robert French on behalf of South Australia.
- The exact age is yet to be settled, but I have been clear that any age limit for social media must be effective in the protection, not isolation, of young people.
- What I do know, is that the proposed legislation will include the following key features:

- A mandatory obligation for social media services to take reasonable steps to prevent children under the minimum age from accessing their service.
- The legislation will place the compliance onus on platforms, not users.
- The legislation will establish eSafety as responsible for regulatory oversight and enforcement.
- An exemption framework designed to create positive incentives for social media services to develop age appropriate versions of their apps.
- A 12-month implementation timeframe to provide industry and the regulator with time to implement systems and processes.
- A review of the measures within two years of commencement.

Comprehensive approach to improving online safety:

- While this legislation is an important step towards protecting young Australians and creating new social norms, this legislation is only one part of our wider efforts to keep Australians safe online.
- I have heard from youth and parents that giving effect to a minimum age will be most effective if complemented with appropriate public education and supports for young people, parents, carers and educators.
- I have also brought forward the independent review of the Online Safety Act, to investigate broad issues such as a potential duty of care on platforms, penalties, and the role of evolving technologies such as generative AI and recommender systems.

Q&A

How are you deciding on the age?

- We are consulting widely with young people, parents, community organisations and experts, but there is no consensus about the 'right age'. We are working closely with states and territories to understand their views on these issues before deciding.

How are you working with states and territory governments?

- Prime Minister Anthony Albanese wrote to the Premiers and Chief Ministers last week to seek their views on what the age limit should be, including evidence to inform this from a youth development perspective.
- We are also seeking feedback from states and territories on a range of issues including:
 - The community appetite on the role for parental consent to feature as a factor for age limits and permissions;
 - Grandfathering arrangements for existing account holders;
 - Views on the need for a safety net or exemption for support services such as mental health and education;
 - What state-based supports they have in place that are not on social media to help children – particularly those who are vulnerable or isolated who use social media to connect or access support services.

Will there be grandfathering arrangements for existing account holders?

- We are waiting for feedback from states and territories to understand their views on these issues before deciding.
- We are thinking through the full range of benefits and unintended consequences that grandfathering may present.
- For example, the 12-month implementation timeframe presents a window for people under the minimum age to set up accounts before the minimum age is enforced. On the other hand, grandfathering acknowledges that changing the expectations for young people who already use social media is difficult.

Justice French's model proposed parental consent for 14 and 15-year-olds.

Will the commonwealth legislation include this feature?

- We are considering the pros and cons of a parental consent model and have engaged directly with parents to understand their willingness to provide consent.
- One of the things I heard in consultation with parents is that they are overwhelmed by the load of dealing with their kids' access to social media, balancing inclusion and harms. And I'm personally conscious of the additional privacy implications this may raise.

How does the minimum age for social media intersect with the age assurance technology trial?

- The Request for Tender for the technology trial closed on 8 October.
- Any regulation using age as a requirement online, including for example requirements for age assurance to access pornographic material under the eSafety Commissioner's Phase 2 codes process, would require effective age assurance. The same is true of any given age to access social media, with additional considerations given it will be dealing with children's information.

What if kids get around age assurance technology, for example using a VPN?

- We realise that no solution will be perfect and there will undoubtedly be young people who find workarounds to access social media. A legislated minimum age creates a new social norm and provides a consistent starting point from which parents and educators can speak to young people about the risks associated with social media use.

How are you regulating international companies based in other jurisdictions?

- We already regulate the social media industry through the Online Safety Act and work constructively with companies and industry bodies. Although we have had issues with some platforms, the majority are compliant and work with the regulator constructively.
- We will also work with our international partners, including the United Kingdom through the historic Online Safety and Security Memorandum of Understanding, which I signed earlier this year.

How are you defining social media for the purposes of the trial? Are games included?

- We have a starting point, in the definition of a social media service under the Online Safety Act 2021. We are considering further refining this definition to ensure it is fit for purpose.

- **[If you wish to go into detail]** We are conscious of the balance between connection and harms, and the presence of other regulation. As such, my current view is that messaging apps will not be captured by this definition. Neither will online gaming, which is also subject to the Classification Scheme which provides clear guidance for parents on the suitability of content.

ATTACHMENT C

Program: Day 1
Thursday, 10 October 2024, ICC Sydney
Social Media Summit, Sydney

Morning Welcome
 Opening address
 The Honourable Chris Minns MP Premier of New South Wales
 The Honourable Peter Malinauskas MP Premier of South Australia

Keynote address - Social media and mental health
 Dr Jean Twenge Professor of Psychology at San Diego State University and author

Panel discussion 1	Panel discussion 2	Panel discussion 3	Panel discussion 4
Growing up in a digital world: Social media’s impact on youth development mental health and efficacy	The digital generation - Understanding how young people use social media and digital tech	Navigating truth decay - Fake news, AI and misinformation	Digital dangers - Bullying, misogyny and extremism
Moderator: §47F	Moderator: §47F	Moderator: §47F	Moderator: §47F
Panellists • §47F • §47F • §47F • §47F	Panellists • §47F • §47F • §47F	Panellists • §47F • §47F • §47F	Panellists • §47F • §47F • §47F • Plenary session

Afternoon **Keynote address and Q&A The time to act is now - standing up to big tech and demanding safer social media for Australia's children**
 §47F Data scientist and social media accountability advocate.

Youth workshop – Part 1
 A youth delegate workshop lead by The Honourable Rose Jackson MLC, Minister for Youth, and facilitated by §47F, Advocate for Children and Young People (ACYP).

Panel discussion 1	Panel discussion 2	Panel discussion 3	Panel discussion 4
Digital parenting: Challenges and strategies	Identity and belonging: Finding community online	Digital rights of the child: Data, privacy and consumer protection	Teaching the digital child: the impact of social media on education and learning
Moderator: §47F	Moderator: §47F	Moderator: §47F	Moderator: §47F

<p>Panellists</p> <ul style="list-style-type: none"> • s47F [redacted] • s47F [redacted] [redacted] • s47F [redacted] 	<p>Panellists</p> <ul style="list-style-type: none"> • s47F [redacted] • s47F [redacted] [redacted] • s47F [redacted] [redacted] 	<p>Panellists</p> <ul style="list-style-type: none"> • s47F [redacted] • s47F [redacted] [redacted] [redacted] • s47F [redacted] [redacted] 	<p>Panellists</p> <ul style="list-style-type: none"> • s47F [redacted] [redacted] • s47F [redacted] [redacted] • s47F [redacted] [redacted]
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Levelling Up – Safeguarding our Digital Future

- Ms Julie Inman Grant
- Ms Alice Dawkins
- Ms Lydia Khalil

Youth workshop – Part 2

A youth delegate workshop lead by The Honourable Rose Jackson MLC, Minister for Youth, and facilitated by s47F [redacted], Advocate for Children and Young People (ACYP).

Rapporteur summary Summit Rapporteur s47F [redacted] and Youth Rapporteur s47F [redacted] will deliver a summary of insights and reflections from day one of the Summit.

Released under the FOI Act 1982 by the Minister for Communications

Program: Day 2
Friday, 11 October 2024, Adelaide Convention Centre
Social Media Summit, Adelaide

Draft program

09:15am – 9.50am

Guest registration

Morning

Welcome and acknowledgements

Greeting to Spirit of Place: Jakirah Telfer

Video address: Dr Jonathan Haidt (TBC)

The Honourable Peter Malinauskas MP
Premier of South Australia

The Honourable Chris Minns MP
Premier of New South Wales

Panel discussion: The Advertiser Teen Parliament

s47F



Video address: The Honourable Robert French AC

Expert Solution Panel Session One: Regulatory and Legislative Protection

- Kirsty Amos, Incoming Chief Executive, SA Secondary Principals' Association (SA) and Principal, Paralowie Gardens High School
- Professor Elizabeth Handsley - School of Law, Western Sydney University and President of Children and Media Australia
- Sonya Ryan OAM, Founder, Carly Ryan Foundation
- Jessica Mendoza-Roth, Co-Founder, Wait Mate

Audience Q&A

12:15pm – 12:55pm

Lunch

Afternoon

The Honourable Michelle Rowland MP
Federal Minister for Communications

Keynote address: Mike Burgess AM
Director-General of Security, Australian Security and Intelligence Organisation

Expert Solution Panel Session Two: Public Health, Prevention and Education

- Lauren Brooks, Principal, St Ignatius College
- Dr Danielle Einstein, Clinical Psychologist, Macquarie University
- Dr Simon Wilksch, Psychologist and researcher, Flinders University


Audience Q&A

Closing remarks

3:00pm

Summit concludes

Released under the FOI Act 1982 by the Minister for Communications

	<p>Australian Government</p> <hr/> <p>Department of Infrastructure, Transport, Regional Development, Communications and the Arts</p>
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To: The Hon Michelle Rowland MP, Minister for Communications (for decision)

Subject: Release of Exposure Draft – Social Media Minimum Age Bill

Critical Date: Please action by COB 29 October 2024, to allow for the Exposure Draft of the Bill and draft Rules to be shared prior to your meeting on 31 October 2024.

Recommendations:	
<p>1. That you agree to share an Exposure Draft of the Online Safety Amendment (Social Media Minimum Age) Bill 2024 (Attachment A) and draft Online Safety (Age-Restricted Social Media Platforms) Rules 2024 (Attachment B) with the Hon Robert French AC, on the basis he will maintain confidentiality and not further distribute materials shared.</p>	
Agreed / Not Agreed	
The Hon Michelle Rowland MP	Date:
Comments:	

Key Points:

1. This brief seeks your agreement to release an Exposure Draft of the Online Safety Amendment (Social Media Minimum Age) Bill 2024 (the draft Bill) and the draft Online Safety (Age-Restricted Social Media Platforms) Rules 2024 (the draft Rules). As the minimum age for social media access has not yet been determined, it will instead be denoted by a '[TBC]' in the draft Bill.
 - a. The draft Bill remains with the Office of Parliamentary Counsel’s (OPC) editorial team for final editorial review. If an updated version of the Bill is provided following your approval, the department proposes to release that version instead.
2. On Thursday 31 October, you are meeting with the Hon Robert French AC to discuss the effectiveness and enforceability of the draft Bill (**MB24-000758** refers). Sharing the draft Bill and Rules ahead of this meeting will support the best use of Mr French’s legal and subject-matter expertise.
 - a. On Friday 1 November 2024, your office and the Department are consulting with key industry stakeholders on the proposed legislation.

~~PROTECTED CABINET~~

MS24-002038

The draft Bill and Rules will not be shared with industry, they will instead receive a summary of the key legislative design principles.

3. In sharing the materials with Mr French, we propose to seek his prior agreement to maintaining confidentiality and refrain from further disseminating, distributing or reproducing the information. Given Mr French's standing, we do not consider that a formal Deed of Confidentiality will be required in this instance.

s34(3)

5. On 10 September 2024, the Prime Minister announced that legislation will be introduced to enforce a minimum age for access to social media services. The announcement noted that Federal legislation will be informed by engagement with States and Territories through National Cabinet and draw on recent work by former Chief Justice, the Hon Robert French AC.

Financial impacts: Nil

Legal/Legislative impacts:

6. The draft Bill seeks authority to amend the *Online Safety Act 2021* (OSA).
7. The department is working with the Office of Parliamentary Counsel, in consultation with your office and the department's legal area. Subsequent drafting instructions may be provided following consultation on the draft Bill and Rules.
8. The draft Bill is currently being reviewed by the Australian Government Solicitor (AGS) for constitutional legal issues and risks. While previous advice was received on 11 October 2024, further advice is required given substantive policy changes reflected in the Bill since that time.

Stakeholder Implications:

9. The minimum age legislation, once commenced, will impact the operation of social media platforms, given the introduction of a proposed obligation to prevent under-age children in Australia holding accounts.

Consultation: Nil

Media Opportunities: Nil

Attachments:

Attachment A: Exposure Draft of the Online Safety Amendment (Social Media Minimum Age) Bill 2024

Attachment B: Draft Online Safety (Age-Restricted Social Media Platforms) Rules 2024

Cleared By: Sarah Vandenbroek
Position: First Assistant Secretary
Division: Digital Platforms, Safety and

Contact Officer: Andrew Irwin
Section: Online Safety Branch
Ph: s22(1)(a)(ii)

Classification

Ph: s22(1)(a)(ii)

Mob: s22(1)(a)(ii)

Cleared Date: 29 October 2024


Instructions for MPS: Nil

Do you require a signed hardcopy to be returned: No

Responsible Adviser: s22(1)(a)(ii), s22(1)(a)(ii)

PDMS Distribution List: Jim Betts, James Chisholm, Sarah Vandenbroek, Andrew Irwin, s22(1)(a)(ii), s22(1)(a)(ii), s22(1)(a)(ii), s22(1)(a)(ii), s22(1)(a)(ii)

~~PROTECTED CABINET~~

 <p>Australian Government <hr/> Department of Infrastructure, Transport, Regional Development, Communications and the Arts</p>	<p align="right">Meeting/Event Brief</p> <p align="right">MB24-000758</p>
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To: The Hon Michelle Rowland MP, Minister for Communications

MEETING: Social media minimum age legislation – targeted consultation

Timing: Thursday 31 October 2024

Venue: Melbourne CPO

Meeting with:

- **12.30–1.00pm:** The Hon Robert French AC, former High Court Chief Justice (**Webex**)
- **1.00–1.10pm:** Julie Inman Grant, eSafety Commissioner (**phone call**)
- **2.00–3.00pm:** Mental health organisations (**in-person and Webex**):

Confirmed attendees

In-person

- Black Dog ^{s47F} [Redacted]
- Orygen ^{s47F} [Redacted]
- Project Rockit ^{s47F} [Redacted]

Virtual

- Black Dog ^{s47F} [Redacted]
- Headspace ^{s47F} [Redacted]
- Kid’s Helpline/Yourtown ^{s47F} [Redacted]
- ReachOut ^{s47F} [Redacted]
- Suicide Prevention Australia ^{s47F} [Redacted]

Unconfirmed invites

- Beyond Blue
- Gayaa Dhuwi (Proud Spirit) Australia
- Prevention United
- LGBTIQ+ Australia

You requested meetings with key stakeholders to discuss the draft legislation to enforce a minimum age of access to social media – the Online Safety Amendment (Social Media Minimum Age) Bill 2024 (draft Bill) (**Attachment D**) and the draft Online Safety (Age-Restricted Social Media Platforms) Rules 2024 (draft Rules) (**Attachment E**). Ahead of these meetings, the Hon Robert French AC received the draft Bill and draft Rules. The mental health organisations received the Key Principles document at **Attachment F**.

Prior meetings:

- On 12 September 2024, the department held a roundtable with community and mental health organisations as part of the Age Assurance Trial, which Headspace and ReachOut attended. Beyond Blue and LGBTIQ+ Health Australia were invited but did not attend. A representative from Orygen attended the academics roundtable on 23 August 2024.
- On 18 September 2024, the department met with the Hon Robert French AC to discuss the report and draft law he prepared for the South Australian Government on banning children’s access to social media.
- On 25 October 2024, the department met with Kids Helpline to discuss the scope of the social media minimum age legislation, and possible exemptions to the obligation.

- The department has worked closely with the office of the eSafety Commissioner throughout the legislative drafting process.

Objectives:

Stakeholder	Our proposed objective	Their proposed objective
The Hon Robert French AC	To seek Mr French’s view on the draft Bill, in particular in relation to its effectiveness and enforceability.	Mr French will likely be interested in discussing the differences between his approach and the draft Bill.
eSafety Commissioner	To seek Ms Inman Grant’s view on the draft Bill, in particular in relation to its effectiveness and enforceability.	s47C
Mental health organisations	To seek feedback on the key design principles of the draft Bill and any redline issues that may not have been considered. The exemptions framework will be a particular focus.	Many mental health organisations have expressed concern that the legislation may hinder the ability for young people to access supports. They may have views on appropriate exemptions.

Key Points:

1. Since the announcement of the legislation, there has been a lot of interest, opinions and media coverage on the issue – in particular around a minimum age, isolation of vulnerable youths and the obligation across the technology stack.
2. The key design principles you announced at the Social Media Summit on 11 October were agreed by Cabinet on 7 October.
3. Any changes to these settings would require agreement by Cabinet or the Prime Minister.

Stakeholder Implications

Mr French

4. The department does not anticipate any implications for Mr French. During a meeting with the department, Mr French did not have a strong position on an appropriate minimum age or parental consent and recognised the challenges of the legislation and the constricted implementation timeframes. Given the possibility of detailed conversation, the department has provided talking points for this meeting separated into ‘key’ and ‘additional’ topics.
5. Mr French noted that elements of the model in his report, notably the ages and parental consent model, were set by the terms of reference provided to him by the South Australian government.

eSafety Commissioner

- 6. The eSafety Commissioner has questioned the efficacy of a social media ‘ban’ for children. In her submission to the Joint Select Committee on Social Media and Australian Society, the Commissioner acknowledged the acute risks posed to children by social media, however, noted that discussion about the risks of social media needed to be balanced with discussion of the benefits.
- 7. Primary concerns raised by the eSafety Commissioner include that:
 - a. children may migrate to other services and platforms with fewer safeguards;
 - b. restricting young people from social media may limit access to critical support; and
 - c. banning children of a certain age would also not help children build capacity to engage safely online

s47C



Mental health organisations

- 9. Mental health organisations may be critical of a minimum age to access social media. Public commentary has acknowledged the risks of social media (including misinformation, harmful content and addictive behaviours), however has emphasised that many Australians turn to social media as a source of mental health information and support, and a ban could cut young people off from vital support. Notable commentary includes:
 - July 2024 – Joint submission from ReachOut, Beyond Blue and Black Dog Institute to the Joint Select Committee on Social Media and Australian Society
 - 8 October 2024 – *Harnessing the Feed* report by ReachOut
 - 9 October 2024 – open letter signed by more than 100 Australian academics, 20 international experts, and 20 Australian civil society organisations (**Attachment I**)

Consultation

- 10. In developing the policy and the draft Bill, the department has undertaken extensive consultation with the Attorney-General’s Department, Office of International Law, eSafety, the Treasury, the department’s Internet Governance team, and the Department of Foreign Affairs and Trade.

Name: Andrew Irwin
 Position: Assistant Secretary
 Division: Online Safety Branch
 Ph: s22(1)(a)(ii)
 Mob: s22(1)(a)(ii)

Contact Officer: s22(1)(a)(ii)
 Division: Age Assurance Trial Taskforce
 Ph: s22(1)(a)(ii)
 Mob: s22(1)(a)(ii)

Attachments:

Attachment A: Biographical Details (A1) and Talking Points (A2) – Hon Robert French AC

Attachment B: Talking Points – eSafety Commissioner

Attachment C: Biographical Details (C1) and Talking Points (C2) – Mental health organisations

Attachment D: Draft Bill

Attachment E: Draft Rules

Attachment F: Legislative design principles

Attachment G: Summary of state and territory responses to PM letter

Attachment H: Open letter from academics, experts and civil society organisations

ATTACHMENT A1

BIOGRAPHICAL DETAILS



Name: The Hon Robert French AC

Position: Former Chief Justice of the High Court of Australia

Biography:

The Hon Robert French AC was appointed Chief Justice of the High Court of Australia in September 2008, and served to January 2017. In September 2024, South Australian Premier Peter Malinauskas released a report by Mr French outlining a legislative vehicle to ban children under the age of 14 from accessing social media (with access granted to 14- and 15-year-olds with parental consent). Mr French's report and draft Bill have informed the design of the Commonwealth legislation to enforce a minimum age of access to social media.

At the time of his appointment as Chief Justice of the High Court of Australia, Mr French was a judge of the Federal Court of Australia, having been appointed to that office in November 1986. He graduated from the University of Western Australia in science and law. He was admitted in 1972 and practised as a barrister and solicitor in Western Australia until 1983 when he went to the Western Australian Bar. From 1994 to 1998 he was President of the National Native Title Tribunal. At the time of this appointment he was an additional member of the Supreme Court of the Australian Capital Territory and a member of the Supreme Court of Fiji. He was also a Deputy President of the Australian Competition Tribunal and a part-time member of the Australian Law Reform Commission. From 2001 to January 2005 he was president of the Australian Association of Constitutional Law. Chief Justice French was appointed a Companion in the General Division of the Order of Australia in 2010.

ATTACHMENT A2

TALKING POINTS – The Hon Robert French AC

Introduction

- Thank you for joining us today to discuss the Government’s draft legislation to enforce a minimum age of access to social media platforms – the Online Safety Amendment (Social Media Minimum Age) Bill 2024 (the Bill).
- The report and proposed law you drafted for the South Australian Government as part of the Legal Examination into Social Media Access for Children has formed an important basis for work at the Commonwealth level.
- I understand you met with representatives from my department in September to discuss your approach, and the insights gained in this meeting have also informed our legislative design.
- In drafting the federal legislation, we considered how your framework might be applied at a national level, in particular, how we could integrate it into the existing framework of the *Online Safety Act 2021* (the OSA).
- I’m aware this was only provided to you in the last couple of days, so I appreciate the time you’ve taken to examine it and to meet with us today.
- I ask that you keep the draft Bill and Rules confidential, along with the details of our discussion today.

KEY TOPICS

Regulated activity

- The Bill establishes an obligation on social media platforms to take ‘reasonable steps to prevent age-restricted users’ from having an account (proposed s63B).
- This places the onus on platforms to introduce systems and settings to ensure that under-age children cannot create and hold a social media account. It would not punish a platform for individual instances where child-users circumvent any reasonably appropriate measures put in place by the platform – however, a failure to take action to limit such circumventions could give rise to a breach.
- The draft Bill takes a narrower approach to the obligation by regulating the act of ‘having an account’, as opposed to ‘accessing’ social media more generally. As you recognised in your report, there are costs and benefits associated with a legislated restriction. Our

proposed approach seeks to strike a balance between protecting children and young people from harm, while limiting the regulatory burden on the broader population.

- Importantly, the obligation would help to mitigate harms arising from the addictive features that are largely associated with user accounts and profiles, such as algorithms tailoring content, gamification to encourage regular participation, and ‘likes’ to activate positive feedback neural activity.

YOU MAY WISH TO ASK

- *In your draft law, you proposed a wide meaning of the term ‘access’ that was to underpin the obligation on platforms. Did you consider any options for a narrower approach?*

IF ASKED – Why doesn’t the obligation include a ‘duty of care’ element?

- My department carefully considered the option of couching the obligation within a ‘duty of care’ framework, as is proposed in your draft law.
- The independent review of the OSA will outline a path forward for online safety reform, including an expected call for the implementation of a ‘duty of care’ approach for online industry.
- The introduction of a duty of care in the OSA would be a seismic change to the current framework, which adopts a largely content and complaints-based approach. While a duty of care model would likely provide greater protections to Australians, significant work will be required to develop an effective model that holds industry to account. As such, for the purposes of this Bill, we have opted out of a duty of care approach as there will be an opportunity to consider this further in the context of the OSA review.

Regulated population

- The obligation will apply to ‘age-restricted social media platforms’, a new term being introduced into the OSA (proposed s13B). This largely draws on the existing definition of ‘social media service’ (s13), with a modification to expand the ‘sole or primary purpose’ test to a ‘significant purpose’ test.
- While the definition casts a wide net, flexibility to reduce the scope or further target the definition is available through legislative instruments. Achieving this through instruments, rather than primary legislation, allows the Government to be responsive to changes and evolutions in the social media ecosystem.
- An instrument-making power is available to provide additional conditions that must be met, in order to fall within the definition of ‘age-restricted social media platform’.

- As an example, this could include the number of monthly active users a platform must have, before falling within scope.
- An instrument-making power is also available to exclude specific classes of services from the definition. In the first instance, this power may be used to carve out instant messaging, online games, and services that primarily serve to support education or health outcomes.

YOU MAY WISH TO ASK

- *Do you have any views on the definition of ‘age-restricted social media platform’?*

IF ASKED – Why are instant messaging apps and online games excluded from the definition?

- In the case of messaging apps, while users can still be exposed to harmful content by other users, they do not face the same algorithmic curation of content and psychological manipulation to encourage near endless engagement. Further, including messaging apps could have wider consequences, such as making communication within families harder.
- Online games are currently regulated under the National Classification Scheme. The Scheme provides information on the age suitability of online games through a combination of the classification and relevant consumer advice. Imposing additional age-based regulation to online games would create unnecessary regulatory overlap.

IF ASKED – Why was the ‘sole or primary’ purpose test changed?

- Under s13 of the OSA, a condition of being a ‘social media service’ is that its *sole or primary purpose* is to enable online social interaction. This is a very focused requirement that could offer platforms greater opportunity to argue they are out of scope, particularly as their service-offerings expand and evolve.

IF ASKED – Is there a risk that regulating the act of ‘having an account’, as opposed to ‘accessing’ social media, will encourage social media platforms to allow content on their services to be viewed by non-account holders (similar to the YouTube model)?

- There will be an opportunity to reconsider this following a two-year review of the minimum age being in place to determine whether the scope of the regulated activities and services is appropriate.

Exemption framework

- Platforms within scope of the definition may seek an exemption from the obligation, by applying to the eSafety Commissioner (proposed s63D).

- The Commissioner will be empowered to make a legislative instrument, setting out the criteria that platforms must meet in order to be exempted under this framework.
- This is a key component of the framework, providing a positive incentive for safe innovation to platforms that wish to access the market for under-age users. Platforms that do not employ harmful features may apply for an exemption. The harmful features in question will focus on design elements of platforms, such as the algorithmic feeds that can have a devastating effect on mental wellbeing, sleep and physical activity. This can exacerbate psychological or mental health changes such as negative body image.
- The criteria will be co-designed with experts, industry and children, to ensure it strikes the right balance between protecting children from the harmful effects of social media, while continuing to facilitate the benefits it can bring.

YOU MAY WISH TO ASK

- *Do you have any views on what should be included in the exemption criteria?*

IF ASKED – Why is the exemption criteria being deferred to regulations rather than being set out in the OSA?

- Design of the criteria will be complex and crucial. It will be the subject of intense scrutiny both from those wanting to ensure that children are adequately protected, and from platforms seeking to minimise the burden required on them to access a younger market. As such, I am proposing that the details of the exemption framework will feature in regulations. This will allow for a considered, co-designed approach to be taken. The regulations would be finalised by the third quarter of 2025, ahead of the implementation of the legislation.
- The objective of the criteria is to encourage platforms to adopt safety-by-design principles, and submit to the Commissioner for assessment of their mitigations. This drives improvement in the market, while providing an opportunity for connections, not harms, to flourish.

Parental consent

- The Bill does not incorporate parental consent as an exemption to the minimum age obligation.
- Parental consent is likely to be complex to administer and result in a significant increase in the volume of data collected by platforms. For example, in addition to establishing that a

person is an under-age user, the platform would need to establish the identification of the parent or carer, as well as to confirm that relationship.

- It would also undermine a key objective of the policy, which is to support and empower parents, rather than putting more pressure on them.

Grandfathering

- The Bill does not include grandfathering arrangements for existing under-age users.
- The Bill will instead provide a one-year implementation timeframe (at a minimum), allowing for an adequate transition, while preserving an equitable treatment for all users below the minimum age.
- Grandfathering is likely to be very difficult to administer, and could incentivise the mass creation of child accounts ahead of the Bill's passage and implementation.

IF RAISED – ADDITIONAL TOPICS

Age

- We are still finalising the question of age.
- There is no robust evidence that provides a definitive answer on a single age. Multiple experts at the NSW Government's Social Media Summit all provided differing views, ranging from an age of 14 to 16, to contesting whether there should be any minimum age.
- At the same time, there is broad agreement that social media is exposing young Australians to a range of harms, many stemming from the addictive features of platforms.

YOU MAY WISH TO ASK

- *Based on your reading of the draft Bill and how it would operate, does that suggest a higher or lower age?*

Privacy safeguards

- The practical effect of the minimum age obligation on platforms is that they will likely be required to undertake some form of age assurance on account holders, as a means of satisfying the 'reasonable steps' requirement.
- 'Age assurance' encompasses a range of methods for estimating or verifying the age or age range of users. Each method relies on data and personal information as an input, but may differ in the amount and type of data required.
- The Bill incorporates strong protections for personal information collected by platforms for age assurance purposes (proposed s63H).

- Importantly, these provisions provide that platforms must not use that information for any other purpose, unless explicitly agreed by the user. This agreement must be voluntary, informed, current, specific and unambiguous – this is an elevated requirement that precludes platforms from seeking consent through preselected settings or opt-outs. In addition, once the information has been used for age assurance, it must be destroyed or de-identified by the platform.
- Serious and repeated breaches of these provisions could result in penalties of up to \$50 million (s13G of the *Privacy Act 1988*).

IF ASKED – Will the minimum age obligation result in platforms asking all users to upload government-issued ID?

- There are a range of age assurance methods available to platforms that would not involve a comprehensive collection of formal ID.
- The Government is undertaking an age assurance trial that will evaluate the available technologies against their privacy implications and reliability, and provide a robust tool for assessing different approaches.
- The outcomes of the trial will inform the development of regulatory guidance by the eSafety Commissioner on the age assurance methods that are considered appropriate.
- At the same time, the privacy safeguards in the Bill impose robust obligations on platforms to protect, ringfence and destroy any information collected, including government-issued ID, with serious penalties applicable for any breach of these requirements.

Additional regulator powers

- The Bill equips the Commissioner with additional tools and powers to effectively administer the new minimum age framework. This includes:
 - The ability to impose conditions when exempting platforms from the minimum age obligation.
 - Information-gathering powers, that allow the Commissioner to request information from platforms about how they are complying with the obligation.
 - A power to direct internet search engines to remove links to platforms considered to be in breach of the obligation.
 - A power to direct app distribution services to cease enabling users to download apps for platforms considered to be in breach of the obligation.

YOU MAY WISH TO ASK

- *Do you have any views on whether the powers are sufficient and proportionate?*

Penalties

- In making these reforms, it is critical we send a clear signal to platforms about the importance of their social responsibilities to children and all Australians. As such, the Bill is expected to impose significant penalties for breaching the minimum age obligation. This could be as high as \$50 million, consistent with serious offences set out in the *Privacy Act 1988* and *Competition and Consumer Act 2010*.

Commencement

- The minimum age obligation on social media services will commence no earlier than 12-months after Royal Assent, on a day to be specified (proposed s63C). This flexibility on the when the obligation commences will allow time for social media platform to develop and implement required systems.
- It will also allow for finalisation of the Age Assurance Trial, which will provide guidance on market readiness of age assurance technologies, and inform advice to Government and the eSafety Commissioner on implementation and enforcement of the minimum age.

Review

- Finally, review of the legislation two years after effective commencement (proposed s239B) will provide the Government with an opportunity to recalibrate policies, if required, to be proportionate to changed behaviours – of both digital platforms and young people.
- It will allow time to recognise any technological advancements since commencement, to reconsider the definition of an age-restricted social media platform, and to consider whether other digital platforms such as online games or additional social media platforms that can be viewed without an account or profile, should be captured within scope.
- The review point will also provide an opportunity to reassess the evidence base surrounding young people’s mental health and wellbeing, and the impacts of social media platform, as a measure of success of the legislation.

ATTACHMENT B

TALKING POINTS – eSafety Commissioner

Introduction

- Thank you for taking the time today to discuss the Government’s draft legislation to enforce a minimum age of access to social media platforms – the Online Safety Amendment (Social Media Minimum Age) Bill 2024 (the Bill).
- In drafting the legislation, my department has been working closely with your office to ensure eSafety’s expertise is considered and reflected in the design of the Bill.

KEY TOPICS

Regulated activity

- The Bill establishes an obligation on social media platforms to take ‘reasonable steps to prevent age-restricted users’ from having an account (proposed s63B).
- This places the onus on platforms to introduce systems and settings to ensure that under-age children cannot create and hold a social media account. It would not punish a platform for individual instances where child-users circumvent any reasonably appropriate measures put in place by the platform – however, a failure to take action to limit such circumventions could give rise to a breach.
- The approach of regulating the act of ‘having an account’, as opposed to ‘accessing’ social media more generally seeks to strike a balance between protecting children and young people from harm, while limiting the regulatory burden on the broader population.
- Importantly, the obligation would help to mitigate harms arising from the addictive features that are largely associated with user accounts and profiles, such as algorithms tailoring content, gamification to encourage regular participation, and ‘likes’ to activate positive feedback neural activity.

Regulated population

- The obligation will apply to ‘age-restricted social media platforms’, a new term being introduced into the OSA (proposed s13B). This largely draws on the existing definition of ‘social media service’ (s13), with a modification to expand the ‘sole or primary purpose’ test to a ‘significant purpose’ test.

- While the definition casts a wide net initially, flexibility to reduce the scope or further target the definition is available through legislative instruments. Achieving this through instruments, rather than primary legislation, allows the Government to be responsive to changes and evolutions in the social media ecosystem – as well as the ability to manage the regulatory and administrative burden that will arise from the framework.
- An instrument-making power is available to provide additional conditions that must be met in order to fall within the definition of ‘age-restricted social media platform’.
 - As an example, this could include the number of monthly active users a platform must have, before falling within scope.
- An instrument-making power is also available to exclude specific classes of services from the definition. In the first instance, this power may be used to carve out instant messaging, online games, and services that primarily serve to support education or health outcomes.

YOU MAY WISH TO ASK

- *Do you have any views on the definition of ‘age-restricted social media platform’?*

IF ASKED – Why is the obligation being imposed on social media platforms, rather than at the app-store or device level?

- The Government has already announced the obligation on platforms.
- However, we would welcome social media platforms contracting with app stores, service providers and manufacturing companies, where this partnership could amount to reasonable steps for age assurance.
- This issue could be further examined as part of the review of the legislation that will occur within 2 years of commencement.

IF ASKED – Why was the ‘sole or primary’ purpose test changed?

- Under s13 of the OSA, a condition of being a ‘social media service’ is that its *sole or primary purpose* is to enable online social interaction. This is a very focused requirement that could offer platforms greater opportunity to argue they are out of scope, particularly as their service-offerings expand and evolve.

Exemption framework

- Platforms within scope of the definition may seek an exemption from the obligation, by applying to the eSafety Commissioner (proposed s63D).

- The Commissioner will be empowered to make a legislative instrument, setting out the criteria that platforms must meet in order to be exempted under this framework.
- This is a key component of the framework, providing a positive incentive for safe innovation to platforms that wish to access the market for under-age users. Platforms that do not employ harmful features may apply for an exemption. The harmful features in question will focus on design elements of platforms, such as the algorithmic feeds that can have a devastating effect on mental wellbeing, sleep and physical activity. This can exacerbate psychological or mental health changes such as negative body image.
- The criteria will be co-designed with experts, industry and children, to ensure it strikes the right balance between protecting children from the harmful effects of social media, while continuing to facilitate the benefits it can bring.

IF ASKED – Why is the exemption criteria being deferred to regulations rather than being set out in the OSA?

- Design of the criteria will be complex and crucial. It will be the subject of intense scrutiny both from those wanting to ensure that children are adequately protected, and from platforms seeking to minimise the burden required on them to access a younger market. As such, I am proposing that the details of the exemption framework will feature in regulations. This will allow for a considered, co-designed approach to be taken. The regulations would be finalised by the third quarter of 2025, ahead of the implementation of the legislation.
- The objective of the criteria is to encourage platforms to adopt safety-by-design principles, and submit to the Commissioner for assessment of their mitigations. This drives improvement in the market, while providing an opportunity for connections, not harms, to flourish.

Additional regulator powers

- The Bill equips the eSafety Commissioner with additional tools and powers to effectively administer the new minimum age framework. This includes:
 - The ability to impose conditions when exempting platforms from the minimum age obligation.
 - Information-gathering powers, that allow the Commissioner to request information from platforms about how they are complying with the obligation.

- A power to direct internet search engines to remove links to platforms considered to be in breach of the obligation.
- A power to direct app distribution services to cease enabling users to download apps for platforms considered to be in breach of the obligation.
- These provisions have been prepared in consultation with your office. I note that further work is ongoing to consider what else might be required and appropriate for the framework.

YOU MAY WISH TO ASK

- *Do you have any views on whether the powers are sufficient and proportionate?*

IF RAISED – ADDITIONAL TOPICS

Age

- We are still finalising the question of age.
- There is no robust evidence that provides a definitive answer on a single age. Multiple experts at the NSW Government’s Social Media Summit all provided differing views, ranging from an age of 14 to 16, to contesting whether there should be any minimum age.
- At the same time, there is broad agreement that social media is exposing young Australians to a range of harms, many stemming from the addictive features of platforms.

Penalties

- In making these reforms, it is critical we send a clear signal to platforms about the importance of their social responsibilities to children and all Australians. As such, the Bill is expected to impose significant penalties for breaching the minimum age obligation. This could be as high as \$50 million, consistent with serious offences set out in the *Privacy Act 1988* and *Competition and Consumer Act 2010*.

Parental consent

- The Bill does not incorporate parental consent as an exemption to the minimum age obligation.
- Parental consent is likely to be complex to administer and result in a significant increase in the volume of data collected by platforms. For example, in addition to establishing that a person is an under-age user, the platform would need to establish the identification of the parent or carer, as well as to confirm that relationship.

- It would also undermine a key objective of the policy, which is to support and empower parents, rather than putting more pressure on them.

Commencement

- The minimum age obligation on social media services will commence no earlier than 12-months after Royal Assent, on a day to be specified (proposed s63C). This flexibility on the when the obligation commences will allow time for social media platform to develop and implement required systems.
- It will also allow for finalisation of the Age Assurance Trial, which will provide guidance on market readiness of age assurance technologies, and inform advice to Government and the eSafety Commissioner on implementation and enforcement of the minimum age.

Review

- Review of the legislation two years after effective commencement (proposed s239B) will provide the Government with an opportunity to recalibrate policies, if required, to be proportionate to changed behaviours – of both digital platforms and young people.
- It will allow time to recognise any technological advancements since commencement, to reconsider the definition of an age-restricted social media platform, and to consider whether other digital platforms such as online games or additional social media platforms that can be viewed without an account or profile, should be captured within scope.
- The review point will also provide an opportunity to reassess the evidence base surrounding young people’s mental health and wellbeing, and the impacts of social media platform, as a measure of success of the legislation.

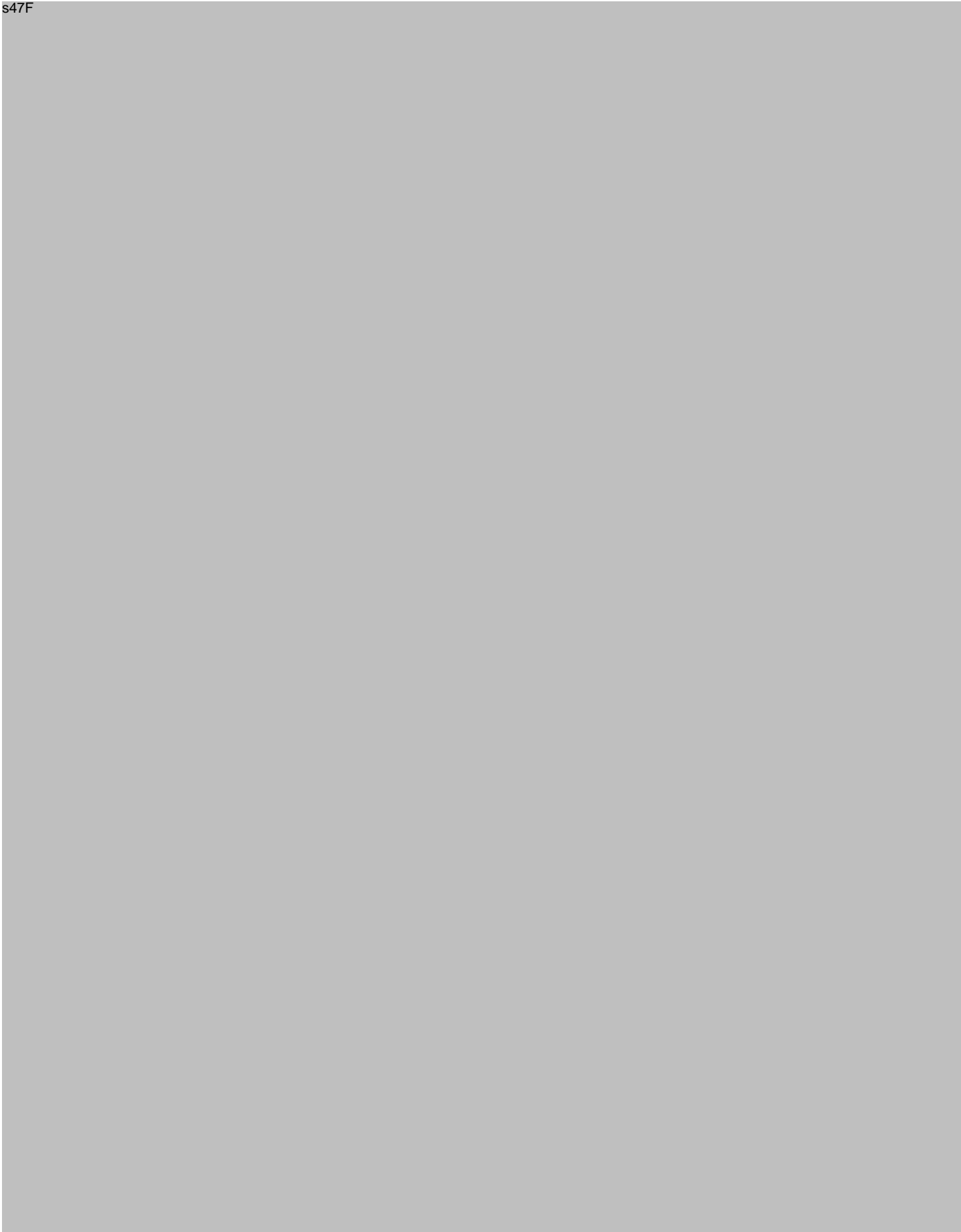
ATTACHMENT C1

s47F



Released under the FOI Act 1982 by the Minister for Communications

s47F



Released under the FOI Act 1982 by the Minister for Communications

s47F



Released under the FOI Act 1982 by the Minister for Communications

ATTACHMENT C2

TALKING POINTS – Mental health organisations

Introduction

- Thank you for joining me today to discuss the Government’s legislation to enforce a minimum age of access to social media platforms.
- The Bill aims to minimise the risk of harms to young Australians from social media, place responsibility on social media platforms for the safety of their users, and incentivise safe innovation on digital platforms.
- We know, however, that social media platforms offer a range of benefits to young Australians, including as an avenue for social connection and community building, and access to support services, news and information.
- That’s why we are designing legislation that aims to strike a balance between protecting children from online harms and maintaining their access to these benefits.
- I understand some of you participated in a roundtable organised by my department as part of the age assurance trial. Your feedback has informed the key design principles of the legislation.
- As organisations on the frontline of supporting young people’s mental health, your insights today will be invaluable for this process.
- I ask that you keep the details of our discussion today confidential, and do not distribute any materials provided by my department further.

KEY TOPICS

Age

- The Government is continuing to consider the minimum age. I note that no solution will be perfect, and there is unlikely to be consensus among experts and the community on the ‘right’ age.
- We are aware that there is no robust evidence that provides a definitive answer on a single age. Multiple experts at the NSW and SA governments’ Social Media Summit provided differing views, ranging from an age of 14 to 16, to contesting whether there should be any minimum age.

- I am interested to hear from you today about any views you have about an appropriate age, particularly with reference to the demographics of your users, including through your social media platforms compared with other communication channels.

IF ASKED – When will the age be announced?

- The age will be included as part of the finalised Bill, which we are working to introduce into Parliament by the end of this year.

Regulated activity

- The Bill establishes an obligation on social media platforms to take ‘reasonable steps to prevent age-restricted users’ from having an account.
- This places the onus on platforms to ensure that underage children cannot create and hold a social media account. It would not punish a platform for individual instances where a child circumvents any systems put in place by the platform to prevent this – however, a failure to take action to limit such circumventions could give rise to a breach.
- By regulating the act of ‘having an account’, as opposed to ‘accessing’ social media more generally, the Bill seeks to strike a balance between protecting children and young people from harm, while limiting the regulatory burden on the broader population.
- Importantly, the obligation would help to mitigate harms arising from the addictive features that are largely associated with social media, such as algorithms tailoring content, gamification to encourage regular participation, and ‘likes’ to activate positive feedback neural activity.

Regulated population

- The obligation will apply to ‘age-restricted social media platforms’, which is a new term being introduced into the Online Safety Act. Its definition includes that a ‘significant purpose’ of the service is to enable online social interactions between 2 or more users.
- While this definition casts a wide net, the Bill allows for flexibility to reduce the scope or further target the definition through legislative instruments.
- An instrument-making power is available to introduce additional conditions that must be met in order to fall within the definition of ‘age-restricted social media platform’.
 - As an example, this could include the number of monthly active users a platform must have, before falling within scope.

- An instrument-making power is also available to exclude specific classes of services from the definition. In the first instance, this power may be used to carve out instant messaging, online games, and services that primarily serve to support education or health outcomes.

YOU MAY WISH TO ASK

- *Do you have any views on the definition of ‘age-restricted social media platform’?*

IF ASKED – Why are instant messaging apps and online games excluded from the definition?

- In the case of messaging apps, while users can still be exposed to harmful content by other users, they do not face the same algorithmic curation of content and psychological manipulation to encourage near endless engagement. Further, including messaging apps could have wider consequences, such as making communication within families harder.
- Online games are currently regulated under the National Classification Scheme. The Scheme provides information on the age suitability of online games through a combination of the classification and relevant consumer advice. Imposing additional age-based regulation to online games would create unnecessary regulatory overlap.

Exemption framework

- Platforms within scope of the definition may seek an exemption from the obligation, by applying to the eSafety Commissioner.
- The Commissioner will be empowered to make a legislative instrument, setting out the criteria that platforms must meet in order to be exempted.
- The objective of the criteria is to encourage platforms to adopt safety-by-design principles. This drives improvement in the market, while providing an opportunity for connections, not harms, to flourish.
- The criteria will be co-designed with experts, industry and children, to ensure it strikes the right balance between protecting children from the harmful effects of social media, while continuing to facilitate the benefits it can bring.
- Platforms that do not use harmful features may apply for an exemption. The harmful features in question will focus on design elements of platforms, such as the algorithmic feeds that can have a devastating effect on mental wellbeing, sleep and physical activity.

YOU MAY WISH TO ASK

- *Do you have any views on what should be included in the exemption criteria?*

IF ASKED – What will the new minimum age framework mean for at-risk children – such as those who lack a safe home environment or are part of a marginalised community – who use social media to access support and information, including in relation to mental health?

- We recognise that, in some cases, social media offers benefits for children and young people, particularly for those accessing mental health services.
- We acknowledge that introducing a minimum age for social media will affect what is currently a large channel for access to your services. However, we are neither turning off the whole internet, nor confiscating phones from every young person.
- As such I would like to discuss ways that, in the context of a world with this framework, we can all work to maintain overall access to your services. In particular, the inclusion of an exemption framework means it will be open to platforms to continue providing this beneficial access to under-age users once they have made the platform safe for all children.
- Further, the ability to exclude specific types of services from the definition, such as those that primarily serve to support education or health outcomes, will support maintained access for all children to these benefits.
- Would having messenger services outside of scope help youth reach your services?

IF ASKED – Why is the exemption criteria being deferred to regulations rather than being set out in the OSA?

- Design of the criteria will be complex and crucial. It will be the subject of intense scrutiny both from those wanting to ensure that children are adequately protected, and from platforms seeking to minimise the burden required on them to access a younger market. As such, I am proposing that the details of the exemption framework will feature in regulations. This will allow for a considered, co-designed approach to be taken. The regulations would be finalised by the third quarter of 2025, ahead of the implementation of the legislation.

Review

- Review of the legislation two years after commencement will provide the Government with an opportunity to recalibrate policies, if required, to be proportionate to changed behaviours – of both digital platforms and young people.
- It will allow time to recognise any technological advancements since commencement, to reconsider the definition of an age-restricted social media platform, and to consider whether other digital platforms such as online games should be captured within scope.

- The review point will also provide an opportunity to reassess the evidence base surrounding young people’s mental health and wellbeing, and the impacts of social media platforms, as a measure of success of the legislation.

IF ASKED (additional topics)

*Will the Bill include a model for **parental consent**?*

- The Bill does not incorporate parental consent as an exemption to the age limit obligation.
- Parental consent is likely to be complex to administer and result in a significant increase in the volume of data collected by platforms. For example, in addition to establishing that a person is an under-age user, the platform would need to establish the identification of the parent or carer, as well as to confirm that relationship.
- It would also undermine a key objective of the policy, which is to support and empower parents, rather than putting more pressure on them.

*Will there be **grandfathering**?*

- The Bill does not include grandfathering arrangements for existing under-age users.
- The Bill will instead provide a one-year implementation timeframe (at a minimum), allowing for an adequate transition, while preserving an equitable treatment for all users below the minimum age.
- Grandfathering is likely to be very difficult to administer, and could incentivise the mass creation of child accounts ahead of the Bill’s passage and implementation.

*Will this bill have a negative impact on **privacy**?*

- The practical effect of the age limit obligation on platforms is that they will likely be required to use some form of age assurance on account holders, as a means of satisfying the ‘reasonable steps’ requirement.
- The Bill incorporates strong protections for personal information collected by platforms for age assurance purposes. Importantly, platforms must not use that information for any other purpose, unless explicitly agreed by the user. In addition, once the information has been used for age assurance, it must be destroyed or de-identified by the platform.
- Serious and repeated breaches of these provisions could result in penalties of up to \$50 million (s13G of the *Privacy Act 1988*).

*Will the age limit obligation result in platforms asking all users to upload **government-issued ID**?*

- There are a range of age assurance methods available to platforms that would not involve collection of formal ID.
- The Government is undertaking an age assurance trial that will evaluate the available technologies against their privacy implications and reliability, and provide a robust tool for assessing different approaches.
- The outcomes of the trial will inform the development of regulatory guidance by the eSafety Commissioner on the age assurance methods that are considered appropriate.

*What **penalties** will exist for breach of the obligation?*

- In making these reforms, it is critical we send a clear signal to platforms about the importance of their social responsibilities to children and all Australians. As such, the Bill is expected to impose significant penalties for breaching the minimum age obligation. This could be as high as \$50 million, consistent with serious offences set out in the *Privacy Act 1988* and *Competition and Consumer Act 2010*.

*What other **regulatory powers** will the eSafety Commissioner have?*

- The Bill equips the Commissioner with additional tools and powers to effectively administer the new age limit framework. This includes:
 - The ability to impose conditions when exempting platforms from the age limit obligation.
 - Information-gathering powers, which allow the Commissioner to request information from platforms about how they are complying with the obligation.
 - A power to direct internet search engines to remove links to platforms considered to be in breach of the obligation.
 - A power to direct app distribution services to cease enabling users to download apps for platforms considered to be in breach of the obligation.

*When will the obligation **commence**?*

- The minimum age obligation on social media platforms will commence no earlier than 12-months after Royal Assent, on a day to be specified (proposed s63C). This flexibility on the when the obligation commences will allow time for social media platforms to develop and implement required systems.

- It will also allow for finalisation of the Age Assurance Trial, which will provide guidance on market readiness of age assurance technologies, and inform advice to Government and the eSafety Commissioner on implementation and enforcement of the minimum age.



Australian Government

Department of Infrastructure, Transport,
Regional Development, Communications and the Arts

Social media minimum age legislation: Design principles

Legislation purpose statement: The Bill will amend the *Online Safety Act 2021* with the aim of minimising the risk of harms to young Australians from social media, place responsibility on social media platforms for the safety of their users, and incentivise safe innovation on digital platforms

Principle	Proposed policy elements
Regulated activity	<ul style="list-style-type: none"> Age restricted social media platforms must be able to demonstrate having taken 'reasonable steps' to prevent under-age users from 'having an account'. Onus is on platforms – not parents, carers or educators. Penalties will apply for any breach.
Regulated platforms	<ul style="list-style-type: none"> The new obligation will apply to 'age-restricted social media platforms', which captures a range of services that facilitate online social interaction. There will be flexibility to further target the definition through regulations. In the first instance, these will be used take the following services out of scope: <ul style="list-style-type: none"> Instant messaging Online gaming Services that primarily support the education and health of users
Exemption framework	<ul style="list-style-type: none"> There will be exemptions from the new obligation, if platforms and services can demonstrate they meet certain criteria. The criteria will require platforms to demonstrate harm minimisation to children engaging on platforms, including those arising from addictive features. The criteria will be set out in a legislative instrument, to be co-designed in 2025 with experts, industry and young people.
Parental consent	<ul style="list-style-type: none"> Parental consent will not feature as an exemption to platforms for the minimum age obligation.
Grandfathering	<ul style="list-style-type: none"> Grandfathering arrangements will not feature. Platforms will be expected to remove existing account holders under the minimum age.
Privacy protections	<ul style="list-style-type: none"> Platforms must not use information and data collected for age assurance purposes for any other purpose, unless explicitly agreed by the user. Once the information has been used for age assurance, it must be destroyed or de-identified by the platforms. Penalties will apply for any breach.
Commencement	<ul style="list-style-type: none"> The minimum age obligation will commence no earlier than 12-months after Royal Assent of the Bill.
Review	<ul style="list-style-type: none"> An independent review of the legislation will be conducted within 2 years of effective commencement or in line with future Online Safety Act reviews, whichever is sooner.

Social media minimum age legislation – feedback from state and territory engagement

	South Australia	New South Wales	Victoria	Western Australia	Northern Territory	Australian Capital Territory	Queensland	Tasmania
AGE: What evidence your jurisdiction can provide on the preferred age limit from a youth development perspective	16	16 (NSW Health points to varied development; response notes State IDs focus on 16, but some Commonwealth use 15)	14	14, parental consent for 14 and 15-year-olds (in line with French report)	In-principle support but no age given. Notes age should be based in evidence, considering social and emotional isolation, disadvantage and geographic impacts.	Caretaker response	Caretaker response	Response Yet to be Received
PARENTAL CONSENT: The threshold appetite among your constituents on the role, if any, for parental consent to feature as a factor or variant for age limits and permissions	No	No	No	Yes, for 14 and 15.	In-principle support for parental role in child development, but notes language barriers and different family structures for First Nations and other cultures.			
GRANDFATHERING: Views on the desirability for grandfathering arrangements for existing account holders under the determined minimum age	Limited , for 14 and 15-year-olds with accounts, with parental controls.	No (relies on 12-month lead time)	No	In-principle support , however ‘further work is required’ due to equity of access.	No firm view but notes risks outlined in French report – enforcement challenges and potential to undermine protection.	Barr public comments: ‘Doesn’t make sense’ to remove existing users a year or 2 before they regain access. Suggests transitional arrangement could work.		
EXEMPTIONS: Views on the need for a safety net or exemption for certain services deemed beneficial for young people (such as mental health, education, or child safety accounts)	Yes As per French, companies to seek exemption, based on safety-by-design.	Yes French as starting point, notes government and non-profit services, and highlights use of Youtube in educational context.	Nil	Yes, limited Beneficial for young people, such as mental health or those required for education.	In-principle support			
PHONE BANS: An assessment of the impacts following your jurisdiction's implementation of a phone ban in schools.	Positive: ‘significant improvement’	Positive: ‘improved engagement and interaction in both classrooms and the playground’	<i>In confidence – not for public use</i> Positive: ‘improved student focus on learning and increased student socialization or physical activity during breaks’	Positive: ‘A 2023 review concluded that it is working well’.	<i>Formal evaluation not yet available</i> Positive: ‘initial indications of positive impacts on student engagement and reduction of cyberbullying incidents during school hours.’			



AUSTRALIAN
CHILD RIGHTS
TASKFORCE

ChildFund
Australia

The Rt Hon Anthony Albanese, MP
Prime Minister
Parliament House
Canberra, ACT 2600

Emailed: s22(1)(a)(ii) @pm.gov.au CCed: s22(1)(a)(ii) @pm.gov.au

October 21st 2024

Dear Prime Minister,

Re: Follow Up to Social Media Summits

Your office should have received our open-letter of October 9th 2024, regarding the proposals for a social media ban for under 16-year-olds, signed by over 100 Australian academics, 20 world-leading international experts, and 20 Australian civil society organisations. The social media Summits have now been held. Whilst the discussion was valuable, we maintain our view that bans will not appropriately protect children and young people online.

We wish to offer our suggestions for alternatives to protect children and young people without arbitrarily restricting their access to the benefits of technology.

We note some of the encouraging statements made in Minister Rowland's address to the Summit in Adelaide on 11 October, including her acknowledgement of the views of children and young people that social media allows them to connect and feel socially included.

We applaud the Government's strategic objective that social media must exercise a social responsibility. We believe that these efforts in the community should be built around measures to provide better support to children, young people, parents and families. At the same time, the regulatory response should focus on creating obligations and incentives to platforms to build appropriate protections and meaningful responses to evidence of harms.

We support Minister Rowland's statement of the Government's intent that the "key design principle of the Commonwealth's legislative approach is to place the onus on platforms, not parents or young people." However, we do not agree that an age limit for social media will help to "signal a set of *normative values* that support parents, teachers, and society".

We believe that it will have the opposite effect as it will shift the focus away from the responsibility of platforms.

Instead, we believe that this can be better achieved by the creation of a statutory duty of care that is supported by the coordinated work of regulators and the guidance from statements such as the *Basic Online Safety Expectations*.

Similarly, exemptions from a ban will not “create positive incentives for digital platforms to develop age-appropriate versions of their apps and embed safe and healthy experiences by design” as the process will be political and bureaucratic rather than evidence-based.

We are keen to continue to work with you to progress these important reforms and support young Australians to be safe and to thrive, now and into the future.

Please feel free to reach out with any questions or queries. We can be reached by contacting either spokesperson, s47F <s47F> or s47F <s47F>.

Sincerely,

s47F

James McDougall
Co-Chair
Australian Child Rights Taskforce ³

s47F

Margaret Sheehan
Chief Executive Officer
[ChildFund Australia](#)

³ For more information about the Taskforce, please see <https://childrightstaskforce.org.au/about-us/>

Social Media Age Limits

Issue: *Australian children are accessing content online that is harmful.*

Headline Talking Points:

- *The Albanese Government is committed to minimising the harm that comes from children accessing content online that is not appropriate for them.*
- *The Government has provided \$6.5 million to conduct a trial of age assurance technologies to protect children from harmful online content, including on social media, and age-restricted content such as pornography.*
- *The Government will introduce legislation before the end of this year to enforce a minimum age of 16 for access to social media and other digital platforms.*

Key points

- The Albanese Government understands the urgency for parents who are rightly concerned about the harmful impact to children of the ease of access to age-inappropriate content such as online pornography, which is prolific and easily accessible, and the harms that exist on social media.
- Parents are looking for real solutions to what is a legitimate national concern about harmful online environments and addictive features on social media that often target children.
- That is why the Government has announced that the minimum age for access to social media in Australia will be 16.

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- Our Government will introduce legislation this year to enforce the minimum age for access to social media.
- I have made it clear that any age limit for social media access – and its implementation – must be effective in the protection, not isolation, of young people.
- Our approach will place the onus for compliance on the platforms, not parents or children.
- We are setting a normative value for parents in determining that social media in its current form is not suitable for use by young Australians. Our decision has been guided by inputs from a range of stakeholders on the appropriate age.
- We are showing global leadership in taking this approach and we know that other nations are also seeking to act in the regulatory oversight of social media.
- I have outlined the key design principles of the Commonwealth’s legislation in my speech at the Social Media Summit, which was jointly hosted by NSW and South Australian Governments on 10 and 11 October.
- These principles are:

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- That the Online Safety Act will be amended to establish social media age limits.
- That the onus would be on platforms, not parents or young people.
- That penalties for users will not feature in our legislative design. It will be incumbent on the platforms to demonstrate they are taking reasonable steps to ensure fundamental protections are in place at the source.
- eSafety, as the nation's regulator on online safety matters will provide oversight and enforcement of our measures. Using the established Commonwealth framework will enable the government to draw on the expertise of the Office of the eSafety Commissioner in the implementation and monitoring.
- consideration of an exemption framework to accommodate access for social media services that demonstrate a low risk of harm to children. The aim is to create positive incentives for digital platforms to develop age-appropriate versions of their apps.
- recognising the harmful features in the design of platforms that drive addictive behaviours, the government will set parameters to guide

platforms in designing social media that allows connections, but not harms, to flourish.

- a 12-month implementation timeframe to provide industry and the regulator time to implement systems and processes.
- a review of these measures to ensure they are effective and delivering the outcomes Australians want.
- A Commonwealth-led approach will ensure that all young Australians are better protected from online harms, and that parents and carers are supported in a nationally-consistent manner to keep their children safe.

ON AGE ASSURANCE IF NEEDED

- For age assurance technologies to keep our children safe online, they need to be effective. We also understand that it is critical to get privacy and security right.
- On 10 September, we released the tender to procure an independent technology provider to assess a range of technologies available on the market, to inform our decision making on the best next steps to protect Australian children.

- This approach aligns with the recommendation of the eSafety Commissioner, made in the Roadmap for Age Verification, that age assurance technologies should be trialled before seeking to mandate them.
- The Government has commenced all elements of the trial:
 - A Request for Tender to undertake an independent assessment of a range of age assurance technologies available on the market closed on 8 October. Industry briefings for prospective tenderers were held on 18 and 24 September and attended by interested parties from Australia and overseas.

If asked: How will the delay in the completion of the technology trial affect the age limit legislation?

Answer: The legislation is on track for introduction this year and is not dependent on the completion of the technology trial. The legislation has been informed by targeted stakeholder consultation already undertaken through the age assurance trial, and with state and territory governments.

The technology trial is important for the implementation of the legislation. This will be at least 12 months after the legislation is

passed. The information from the trial will particularly assist the eSafety Commissioner to enforce and oversee the onus it places on the platforms. The trial is expected to be completed by the first half of 2025, ahead of the commencement of the legislation. The technology trial is complex and technical and will involve live-testing which requires appropriate ethical and other approvals. While time-consuming, this will mean that Australians can be confident that the implementation, informed by the trial, will have been tested against a range of criteria, including ease of use, privacy and data security.

- Consumer research into Australians' attitudes towards the use of age assurance technologies for access to both pornography and social media, and their views on an appropriate minimum age for social media access.
- A Cross-Government Working Group was established in May, to inform all aspects of the trial including the criteria for technical assessment, such as important questions of privacy and security. The working group has met five times and group will continue to meet throughout the duration of the trial.

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- My department has completed consultation with young Australians, parenting groups, academics and child development experts, the digital industry (including social media companies, app stores and hardware providers), community organisations, civil society groups and First Nations youth.

Key messages from parents and child development experts

- In August, I attended a roundtable with parents and parent groups to hear directly about their views and concerns about the benefits and harms of social media and attitudes towards age assurance technologies.
- What I heard from that encounter is that parents see the harms that are present for children on social media and want action from Government and from platforms to address these issues.
- They also recognise that children engaging with each other online can have great benefits and that young people's digital literacy skills development is important.
- I also met with young people, hearing directly from young Australians who will be directly affected by any decisions made by Government as a result of this trial.
- Parents told me they are overwhelmed with the prospect of managing children's social media access, and are calling for a cultural and/or a legal change.
- Some suggested legislating an age limit now and implementing enforcement in the short-medium term.

- The parents and parents group generally acknowledged that children have a right to access safe shared online spaces, and striking a balance between the benefits and the harms is key.
- They also noted that social media has many benefits, including a way to talk to and connect with friends, establish identity, and as a regulation tool for neurodivergent children.
- However, it also can be addictive, provides an avenue for cyberbullying, and algorithms show harmful or inappropriate content, such as horror and pornography that children don't want to see.
- Some of the actions suggested by the group were:
 - An age limit for social media had strong support, though views on the specific age varied.
 - Digital literacy for children and parents is critical. Parents need strategies to create healthy screen routines and support children to safely use technology.
 - Technology does not have to have a perfect before we bring in laws. We cannot wait for technology to catch up with aspirations. Instead set the cultural norm and standards – then as technology improves, we implement it.

Meta's announcement on introducing 'teen accounts' for Instagram

- The Government acknowledges Meta's announcement that they will introduce "teen accounts" for Instagram users under 18.
- Any development that genuinely makes social media safer and healthier for young Australians is a welcome step because everyone has a role to play.

Evidence shows early access to social media can be harmful, and the

Government has been clear that the safety, as well as the mental and physical health of young Australians is paramount.

Government policy intent / commitment

- On 1 May 2024, the Australian Government committed \$6.5 million in the 2024-25 Budget to conduct a trial of age assurance technologies, as an option for addressing both:
 - Access to pornography by those under the age of 18; and
 - Access to social media by children and young people.
- The Department of Infrastructure, Transport, Regional Development, Communications and the Arts is responsible for this trial, which will examine the effectiveness of a range of technologies and assess how well they work in an Australian context, given our privacy and security settings.

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- The final design of the trial has been settled through cross-government consultation, to ensure that a range of policy issues are considered.
- The Cross-Government Working Group on age assurance first met in May and continues to meet monthly, with representation from the office of the eSafety Commissioner, and agencies including the Attorney-General's Department, the Department of Home Affairs, the Department of Education, the Department of Social Services, and the National Indigenous Australians Agency.

Regulation and related work

- The trial is taking place at a time when the Government is thoroughly examining how well online harms are being prevented, and whether there are any gaps in the current regulatory framework.
- Our Government has prioritised online safety from the moment we formed Government and I brought forward a review of the Online Safety Act by a full year to ensure it was keeping up with growing harms online and technologies that weren't even thought of when the Act was passed, such as generative AI.

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- There are other streams of work within my portfolio that build on our commitment to online safety:
 - Development of Phase 2 industry codes under the Online Content Scheme of the Online Safety Act, led by the eSafety Commissioner.
 - An update of the Basic Online Safety Expectations Determination, which sets out safety expectations for online service providers.
 - Stage two reforms to modernise the National Classification Scheme.

Background

- Funding for the trial was announced on 1 May 2024 by the Prime Minister, the Hon Anthony Albanese MP, following a meeting of National Cabinet on gender-based violence.
- The eSafety Commissioner released a statement on 1 May 2024 welcoming the announcement of the trial and noting the parallel work to develop the Phase 2 industry codes.
- In June 2024, Opposition Leader the Hon Peter Dutton MP pledged to ban under-16-year-olds from accessing social media by implementing age verification in the first 100 days of a Coalition government.
- The Request for Tender for an independent assessor to conduct the technology trial was released to the market through tenders.gov.au on 10 September 2024.
- On 7 September, the Premier of South Australia announced a proposed a ban on children under 14 years of age from accessing social media, ahead of releasing a report by former High Court Chief Justice Robert French examining legal avenues to restrict the use of social media by children.
- On 10 September, the Prime Minister announced that the Government will introduce legislation to enforce a minimum age for access to social media.

Anonymous quotes from parents, child-development experts and parent groups consultation on 16 August:

- “We are battling multinational corporations that are going to find another way to access children.”
- “We are battling addiction here. Need to decide on age, build in support mechanisms – look out for measures that will extend beyond social media (such as addiction support)”
- “Majority of parents in a survey reported having conflict with kids about social media – regularly”
- “We need to flip this argument – we want to hear about why a 13-year-old should be on social media”
- “There is a huge appetite amongst parents to delay access to social media. Not any one thing is going to fix this, but raising the age is a significant tool.”

Key Media

Media	Summary
News Corp Australia Let Them Be Kids campaign	Calls on the Government to raise the age of access to social media from 13- to 16-years-old, enforced by age verification.
Collective Shout Calls for age restrictions to online porn	Calls on Government to commence the trial without delay, and to focus on preventing

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	access to pornography now, with consideration of social media to follow.
The Daily Telegraph Labor pilot failing our kids	Trial on age verification for social media and porn drowning in bureaucracy. Only two of the three components of the trial have started and the most crucial element – the technology trial – has not begun.
Announcement by South Australian Premier South Australia takes big leap to regulate social media The Border Mail Wodonga, VIC Social media companies to face fines for allowing children under 14 on their platforms under proposed SA laws - ABC News	On Saturday 7 September, Premier Malinauskas announced a proposed a ban on children under 14 years of age from accessing social media, ahead of releasing a report by former High Court Chief Justice Robert French examining legal avenues to restrict the use of social media by children. <ul style="list-style-type: none"> • It recommends imposing statutory duties of care on social media providers to take all reasonable steps to prevent access by any South Australian child under 14 and by any South Australian child aged between 14-16 without the consent of their parents or guardian. • Beneficial or low-risk social media services would be exempt, as determined by the relevant minister or regulator. • While it is legally possible for South Australia to create its own regulator, the report suggested the Commonwealth could confer a new state-based regulatory function on the eSafety Commissioner.
News Corp Australia ‘Enough is enough’: Fed up PM confirms nationwide social media ban news.com.au — Australia’s leading news site	On Tuesday 10 September, the Prime Minister announced that his government would introduce legislation to enforce a minimum age for access to social media.

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<p>Australian Financial Review</p> <p>Social media age limits: Daniel Petre warns of 'fundamental strategic error' in social media teen ban (afr.com)</p>	<p>The Albanese government should force social media giants such as Facebook and Snapchat to develop systems to block underage access if it is serious about protecting children and teenagers from online harms.</p> <p>Spending \$6.5 million to trial technologies to restrict social media to older teenagers, rather than making the tech companies do it themselves, was a mistake.</p>
<p>The Herald Sun – Opinion</p> <p>The Prime Minister</p> <p>We want children to have their childhood - The Herald Sun Prime Minister of Australia (pm.gov.au)</p>	<p>We will bring this legislation into parliament before the end of the year. This is all about supporting parents and protecting children.</p>
<p>Australian Broadcasting Corporation (ABC)</p> <p>Anti-bullying features and more parental access will be part of new Instagram measures for underage users</p>	<p>Instagram will introduce "teen accounts" for people under 18, limiting what they can view and who can contact them.</p> <p>Meta said the switch will happen immediately for any new users and within 60 days for existing users. Meta is also developing AI tools to help it detect underage users who lie about their age. The tools will be trialled with US users in 2025.</p>
<p>ABC News</p> <p>As a federal social media ban looms, marginalised groups fear youth could be cut off from their communities - ABC News</p>	<p>Concern that banning young people from social media could prevent marginalised people from finding "life-saving" resources they may not be able to access offline.</p> <p>"For a lot of young people, especially people who are marginalised, the internet provides really important spaces for finding communities, and many of the problems that they experience while doing that are really deep issues of social media that also affect adults."</p> <p>To just say we're going to ban kids from accessing that social media until they're 14 or until they're 16, and then chuck them in [with</p>

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	those adults] doesn't address the root of the problem."
<p>Crikey</p> <p>It's not just a 'teen social media ban', it's an age verification scheme</p>	Public debate about Australia's looming teen social media ban has naturally focused on children — but it is going to affect Australians of all ages.
<p>ABC News</p> <p>Federal government's looming social media ban may be bad for isolated, marginalised teenagers - ABC News</p>	Concern that the ban could be detrimental to teenagers who rely on social media to connect with marginalised and minority groups.
<p>The Guardian</p> <p>Norway to increase minimum age limit on social media to 15 to protect children Norway The Guardian</p>	Norway is to enforce a strict minimum age limit on social media of 15 as the government ramped up its campaign against tech companies it says are “pitted against small children’s brains”.
<p>Courier Mail</p> <p>https://www.couriermail.com.au/news/world/abor-delays-social-media-age-limit-trial/video/3e7ab9ee2d4f29be68fc6cf2c748452c</p>	Criticism that the technology trial to ensure social media companies can enforce an age limit is yet to begin.
<p>Daily Telegraph</p> <p>https://www.dailytelegraph.com.au/news/national/anthony-albanese-calls-time-on-social-media-harms-backs-raising-minimum-age-to-16/news-story/272445db8deab9c6ed7764767156b52c</p>	The Prime Minister will announce 16 as the minimum age to access social media.

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s22(1)(a)(ii)

From: VANDENBROEK, Sarah
Sent: Thursday, 7 November 2024 12:41 PM
To: s22(1)(a)(ii)
Subject: Briefing note - Social Media Minimum Age Law - Design Principles.docx [SEC=OFFICIAL]
Attachments: Briefing note - Social Media Minimum Age Law - Design Principles.docx

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Hi s22(1)(a)(ii)

Attached is the briefing note we used for the mental health orgs and the platforms.

I'm proposing that we send it to Premiers' and Chief Ministers' Departments to assist with briefing for National Cabinet tomorrow.

Thanks,
Sarah

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